



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004181



Dear Ms. [REDACTED]

On October 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 4, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible to receive up to \$200.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Did the Marketplace properly determine that you and your daughter were not eligible for Medicaid?

Procedural History

On July 14, 2015, the Marketplace issued a renewal notice stating it was time to update the information in your account by August 15, 2015, in order to decide the appropriate level of financial assistance your household qualifies for.

On July 16, 2015, you contacted the Marketplace to update your renewal application for the upcoming year.

On August 3, 2015, the Marketplace received an updated application for health insurance.

On August 4, 2015, an eligibility redetermination was made finding your household eligible to receive advance premium tax credits in the amount of

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\$200.00 per month, eligible for cost sharing reductions, and eligible to enroll your child in Child Health Plus in the amount of \$9.00 per month. You and your daughter were both found ineligible for Medicaid. The redetermination was based upon your reported household income of \$31,968.00 effective September 1, 2015.

That same day you contacted the Marketplace's Account Review Unit and requested an appeal of the August 4, 2015 eligibility redetermination as it related to the amount of financial assistance you were found eligible to receive. You stated that you would like to be considered for a higher amount of assistance or remain eligible for Medicaid.

A Notice of Hearing was mailed to you on September 17, 2015 advising you that a telephone hearing was scheduled for October 13, 2015.

On October 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single. You will claim your daughter as a dependent on that tax return.
- 2) You testified that you are seeking insurance for yourself and your daughter. You further stated you are satisfied with the level of assistance for your daughter under Child Health Plus, but that you would like your entire household to be considered for Medicaid.
- 3) The application that was submitted on August 4, 2015 listed annual household income of \$31,968.00. You testified that this amount was correct.
- 4) Your current household income is derived from Social Security Survivor benefits in the amount of \$1,332.00 which you and your daughter are entitled to each per month.
- 5) You testified that neither you nor your daughter have any earned income from employment for 2015.

- 6) Your application states and your testimony supports that you will be taking an IRA deduction through [REDACTED] in the amount of \$5,500 on your 2015 tax return.
- 7) Your application states that you live in Onondaga County.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Medicaid

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4).

On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who *are* currently receiving Medicaid benefits financial eligibility may be based either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year (42 CFR § 435.603(h)(2), *but see* SPA 13-0055-MM3, as approved March 19, 2014).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

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Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 435.603(e), see 26 USC § 36B(d)(2)(B)).

With regard to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(a)(1)(A)). For the 2015 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg 15).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature

withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

“Gross income” is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Legal Analysis

Of the eligibility requirements listed above, the only one at issue is the amount of household income the Marketplace should consider when determining your eligibility for financial assistance to remain eligible for Medicaid.

On August 3, 2015, your application listed an annual household income of \$31,968.00. This amount consists of \$15,984.00 in income that you receive from Social Security survivor benefits, as well as \$15,984.00 in income your child receives from Social Security survivor benefits. You further attested to planning on taking a deduction in the amount of \$5,500.00 from your IRA savings account through [REDACTED].

Household income for the purposes of calculating a person’s eligibility for financial assistance to help pay for the costs of health insurance through the Marketplace, consists of the Modified Adjusted Gross Income of all tax filers in a household who are required to file a tax return.

You attested to your intent to file a 2015 tax return when you requested financial support through the Marketplace application. Since you plan on filing your taxes as single/qualifying widow and claim your child as a dependent on your 2015 tax return, you are in a two-person household.

A dependent will be required to file a tax return in 2015 if their earned income is greater than \$6,300.00. According to the information on your application, your child has no earned income. Since your dependent has an earned income less than \$6,300.00, she is NOT required to file a tax return on the basis of their earned income.

A dependent will also be required to file a tax return in 2015 when their unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

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To determine if any portion of a person's Social Security benefit is taxable, the IRS adds one-half of a person's income from Social Security to any other income that person receives. Any amount in excess of \$25,000.00 is considered taxable income.

At the time of your application, your daughter received \$15,984.00 in income from Social Security survivor benefits, and \$0.00 in income from employment. Therefore, \$7,992 (one-half the amount of Social Security she receives) plus \$0.00 in income from a job equals \$7,992. Since \$7,992 is less than \$25,000.00, your child has no taxable income from Social Security and is not required to file a tax return on the basis of unearned income.

Your own individual income consists solely of the Social Security survivor benefits you receive as evidence from documentation you uploaded to your marketplace account in the amount of \$15,984.00. You testified that you plan on taking a deduction from your [REDACTED] IRA account in the amount of \$5,500.00 in 2015. This leaves you with a projected modified adjusted gross income of \$10,484.00 which is below the applicable 2015 threshold for Medicaid purposes (\$21,984.00 for a two-person household).

Therefore, the August 4, 2015 eligibility determination is RESCINDED because your child's income should not have been included in your household's income for Marketplace purposes. People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system and is therefore not an appropriate eligibility determination for your household.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility for financial assistance as a two-person household in Onondaga County, New York with an expected household income of \$10,484.00.

Decision

The August 3, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility for financial assistance as a two-person household in Onondaga County, New York with an expected household income of \$10,484.00.

This decision is not a final determination of your eligibility.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace for a redetermination of your household's eligibility for financial assistance for yourself and your daughter as a two-person household in Onondaga County, New York with an expected household income of \$10,484.00.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The August 4, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility for financial assistance for Medicaid as a two-person household in Onondaga County, New York with an expected household income of \$10,484.00.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

