



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: AP000000004441

[REDACTED]

Dear [REDACTED],

On November 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 28, 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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## Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004441

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did the Marketplace properly determine that you were not eligible for Medicaid as of July 28, 2015?

## Procedural History

On July 28, 2015, the Marketplace issued an eligibility determination notice based on the information contained in your July 27, 2015 application, stating that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2015. The notice further stated that you were not eligible for Medicaid because your household income of \$18,468.00 was over the allowable limit of \$16,243.00.

On August 24, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination.

On November 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 left open for 15 days to allow you time to submit documentation of the start date of your Social Security Survivor Benefits and spouse's pension. On November 13, 2015 the Appeals Unit received a fax from you containing the requested documentation, the documents were marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

## Findings of Fact

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

- 1) You testified that you do not intend on filing a tax return for 2015.
- 2) You testified that you are the only person residing in your household.
- 3) The application that was submitted on July 27, 2015 listed annual household income of \$18,468.00.
- 4) You testified that the income you currently receive is from Social Security Survivor benefits in the amount of \$1,539.00 per month and from your spouse's pension in the amount of \$86.47.
- 5) You testified that your spouse passed away earlier this year and prior to his passing you did not have any income because the Social Security benefit and pension were in his name only.
- 6) You testified, and provided documentation, that you did not begin receiving Social Security benefits in your own name until July 2015.
- 7) You testified, and provided documentation, that you did not begin receiving your spouse's pension in your own name until June 2015.

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 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 was \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

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## Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” 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)).

“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 time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

## **Legal Analysis**

The only issue is whether the Marketplace properly determined that you are not eligible for Medicaid.

You testified that you do not intend to file a tax return for the 2015 tax; however since you live alone you are in a one-person tax household.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and 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. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household.

In the application that was submitted on July 27, 2015 listed annual household income of \$18,468.00 and the eligibility determination relied on that information. Since \$18,468.00 is 156.91% of the 2015 FPL, the Marketplace found you to be not eligible for Medicaid using the information provided in your application.

However, at the hearing you provided credible testimony and documentation to support that the income amount used in the July 27, 2015 application was incorrect.

You testified that your spouse passed away earlier this year and prior to his passing you did not have any income because the Social Security benefit and pension were in his name only. You testified and provided documentation that you did not begin receiving Social Security Survivor benefits in the amount of \$1,539.00 per month until July 2015 and you did not begin receiving your spouse’s pension in the amount of \$86.47 until June 2015.

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Therefore, your 2015 annual household income is \$9,234.00 from Social Security Benefits (\$1,539.00 x 6 months) plus \$605.29 from your spouse's pension (\$86.47 x 7 months) which equals a total annual household income of \$9,839.29.

Since the July 28, 2015 eligibility determination contained the incorrect amount of income used to calculate your eligibility for financial assistance, it is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance based on a household of one person with a 2015 annual household income of \$9,839.29.

## **Decision**

The July 28, 2015 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance based on a household of one person with a 2015 annual household income of \$9,839.29.

**Effective Date of this Decision:** December 10, 2015

## **How this Decision Affects Your Eligibility**

This is not a final determination of your eligibility. Your case is being sent back to the Marketplace to redetermine your eligibility based on the additional income information you provided during the hearing.

The Marketplaces will notify you of the results of this redetermination.

## **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.

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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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The July 28, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance based on a household of one person with a 2015 annual household income of \$9,839.29.

This is not a final determination of your eligibility. Your case is being sent back to the Marketplace to redetermine your eligibility based on the additional income information you provided during the hearing.

The Marketplaces will notify you of the results of this redetermination.

### **Legal Authority**

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

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**A Copy of this Decision Has Been Provided To:**

