



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

## Notice of Decision

Decision Date: February 18, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004702



Dear [REDACTED],

On December 14, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 23, 2014 preliminary 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 and the NY State of Health number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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: February 18, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004702

[REDACTED]

## Issues

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

Did the Marketplace issue a timely eligibility determination based on your household's December 23, 2014 application for health insurance?

Did the Marketplace properly determine that your spouse was only conditionally eligible for Medicaid, effective December 1, 2014?

## Procedural History

On December 19, 2014 the Marketplace received your household's application for health insurance. That application listed an annual household income of \$57,999.96.

On December 20, 2014 the Marketplace issued an eligibility determination notice based on the December 19, 2014 application, stating in pertinent part that your spouse [REDACTED] was conditionally eligible for Medicaid, effective December 1, 2014. The notice further requested that you provide documentation to confirm your household's income before March 21, 2015, or you might lose your eligibility for health insurance or for financial assistance.

On December 21, 2014, the Marketplace redetermined your eligibility, even though the deadline for providing documentation had not yet passed, and on December 22, 2014, the Marketplace issued a notice of eligibility determination stating that your spouse and four children were no longer eligible to enroll in

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insurance through the Marketplace or to receive financial assistance because you had not responded to the renewal notice.

On December 23, 2014 the Marketplace received your household's updated application for health insurance. That application listed an annual household income of \$56,400.00. That day, a preliminary eligibility determination was prepared stating that your spouse was conditionally eligible for Medicaid; however, the income information you provided did not match the Marketplace's records and you needed to produce confirmation of the information in your application within 60 days.

There is no evidence in the record that any eligibility determination notices were issued based on your December 23, 2014 application.

On January 1, 2015 you uploaded copies of your 2013 Income Tax Return, which documented an Adjusted Gross Income on line 37 of your 1040 form of \$46,880.00.

On January 5, 2015, the Marketplace issued a notice stating that the documentation you had submitted was insufficient and more was needed.

On July 7, 2015 your newborn son was added to your Marketplace account and your household's eligibility for health insurance was redetermined.

On July 8, 2015 the Marketplace issued an eligibility determination notice stating that you and your spouse were conditionally eligible for up to \$557.00 per month in advance payments of the premium tax credit, as well as cost-sharing reductions, effective August 1, 2015. This eligibility was based on a household income of \$56,400.00. You were directed to submit documentation of your household income by October 5, 2015, or you might lose your eligibility for health insurance or for financial assistance.

On July 8, 2015 the Marketplace issued a disenrollment notice stating that your spouse's Medicaid Fee-For-Service coverage will be discontinued as of July 31, 2015.

On July 10, 2015; July 20, 2015; and July 28, 2015 you uploaded copies of your 2014 Income Tax Return; line 37 of form 1040 indicated an Adjusted Gross Income of \$56,697.00.

On July 30, 2015 the income documentation your submitted was verified and the income information in your application was updated to \$63,741.00; this figure represented the Net Profits from the business.

On July 31, 2015 the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible for up to \$480.00 per month in

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advance payments of the premium tax credit, as well as cost-sharing reductions, effective September 1, 2015. This eligibility was based on a household income of \$63,741.00.

On September 15, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as your spouse only had conditional Medicaid eligibility from December 1, 2014 through July 31, 2015.

On December 14, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, you were represented by [REDACTED]. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

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

- 1) The record reflects that at the time of your household's December 23, 2014 application, you and your spouse resided together and had four children. Your spouse was also pregnant with one child.
- 2) The application that was submitted on December 23, 2014 listed an annual household income of \$56,400.00. You testified that your household's income consists of money earned from self-employment as well as income from your rental properties.
- 3) On January 1, 2015 you uploaded a copy of your 2013 Income Tax Return. The tax return listed your adjusted gross income as \$46,880.00.
- 4) You testified that you file your taxes electronically.
- 5) You testified that you called the Marketplace to follow up on the income documentation you submitted and you were told that it was not valid because it was not signed.
- 6) On July 10, 2015 you uploaded a copy of your 2014 Income Tax Return. The tax return listed your adjusted gross income as \$56,697.00.
- 7) On July 20, 2015 you uploaded a copy of your IRS e-file Signature Authorization for your 2014 Income Tax Return, dated April 15, 2015.
- 8) The Marketplace's records indicate that on August 17, 2015, a Marketplace representative documented that, "Consumer's income has been updated. His wife's Presumptive eligibility should be updated to all

benefits to cover her labor cost. Documents were verified on 07/30/2015 but emedny was not updated.”

9) The Marketplace’s records indicate that on September 11, 2015, a Marketplace representative documented that the prior note was in error, because, “Presumptive eligibility is correct coverage type, consumers doc's were not verified until 7/30 which means full eligibility would take effect 8/1 however coverage ended 7/31 and consumer is now enrolled with a QHP.” Coverage still showed as prospective.

10) The Marketplace’s records indicate that on October 20, 2015, a Marketplace representative documented that, “Income provided demonstrates consumer is MA eligible. Monthly income of \$5,311.75 is under the 223% at \$6,696.00 for a family of 7.”

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

## **Applicable Law and Regulations**

### Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

### Medicaid for Pregnant Women

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)).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

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 under review, that was the 2014 FPL, which is \$36,030.00 for a seven-person household (79 Fed. Reg. 3593).

### Timely Notice of Medicaid Eligibility

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### Income Verification

For all individuals whose income is needed to calculate the household’s eligibility, the Marketplace must request data that will allow the Marketplace to verify the household’s income (45 CFR § 155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility, it must attempt to resolve the inconsistency by providing the individual an opportunity to submit satisfactory documentary evidence within 90 days from the date of notice (45 CFR § 155.315(f)(2)).

## **Legal Analysis**

The first issue under review is whether the Marketplace made a timely determination of your spouse’s eligibility based on your household’s December 23, 2014 application for health insurance.

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination. To assess whether an eligibility determination was untimely, the Appeals Unit must base the

time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

On December 23, 2014 the Marketplace received your household's updated application for health insurance and prepared only a preliminary eligibility determination stating that your spouse was eligible for Medicaid; however the income information you provided did not match the Marketplace's records and more information was needed. No written determination was ever issued with regard to this preliminary eligibility determination.

The record supports a finding that the Marketplace did not issue a finalized eligibility determination notice based on the December 23, 2014 application, nor did it timely advise you in writing that there was an insufficiency in your application and you needed to submit additional information.

Therefore, it is determined that there was no timely notice informing your spouse of her eligibility with regard to that application and that the Marketplace improperly failed to timely advise you of the insufficiency in your application.

You submitted the signature authorization in July of 2015. Had the Marketplace given you the proper notice, you would have had the opportunity to correct this omission

The second issue under review is whether the Marketplace properly determined that your spouse was only conditionally eligible for Medicaid effective December 1, 2014.

For purposes of determining Medicaid eligibility, there were seven people in your spouse's household at the time of the December 23, 2014 preliminary eligibility determination, which included yourself, your spouse, your four children, and your one unborn child. Your unborn child was counted in your spouse's household in accordance with the New York State Plan Amendment.

In the preliminary eligibility determination prepared on December 23, 2014, you were advised that your spouse's eligibility was only conditional, and that you needed to provide documentation to confirm your household's income. This eligibility determination was based in reliance upon an expected household income of \$56,400.00. You testified that this income was an estimate of your expected income for the 2014 tax year.

The income amount that was attested to in your December 23, 2014 application for health insurance was for the 2014 tax year. You listed a household income of \$56,400.00 on your Marketplace application; the 2013 Tax Return you submitted listed an actual income of \$46,880.00.



On July 10, 2015 you uploaded a copy of your 2014 Income Tax Return. The tax return listed your adjusted gross income as \$56,697.00 and on July 20, 2015 you uploaded a copy of your IRS e-file Signature Authorization for your 2014 Income Tax Return. The adjusted gross income in your 2014 tax return confirms that the income you listed in your December 23, 2014 application for health insurance is accurate.

Medicaid can be provided through the Marketplace to pregnant women who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 223% of the federal poverty level (FPL) for the applicable family size. On the date of your December 23, 2014 application, the relevant FPL was the 2014 FPL, which is \$36,030.00 for a seven-person household. Since \$56,400.00 is 157.36% of the 2014 FPL, the Marketplace properly found your spouse to be eligible for Medicaid. Since you provided valid documentation that the income that was listed on that application was accurate, your spouse's Medicaid eligibility should have not been conditional.

Even if the higher figure of \$63,741.00 was used, your spouse would still be eligible for Medicaid.

Additionally, the signature authorization was submitted on July 20, 2015, and validated your estimate of income for 2014.

Therefore, the Marketplace's December 23, 2014 preliminary eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to facilitate the change in her eligibility from December 1, 2014 to July 31, 2015 from conditionally eligible to eligible.

## **Decision**

The December 23, 2014 preliminary eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to facilitate the change in her eligibility from December 1, 2014 to July 31, 2015 from conditionally Medicaid eligible to Medicaid eligible.

**Effective Date of this Decision:** February 18, 2016

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

Your spouse should have been eligible for full Medicaid benefits as of December 1, 2014.

Your case is being sent back to the Marketplace to facilitate the change in her eligibility from December 1, 2014 to July 31, 2015 from conditionally Medicaid eligible to Medicaid eligible.

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

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## **Summary**

The December 23, 2014 preliminary eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate the change in her eligibility from December 1, 2014 to July 31, 2015 from conditionally Medicaid eligible to Medicaid eligible.

Your spouse should have been eligible for full Medicaid benefits as of December 1, 2014.

Your case is being sent back to the Marketplace to facilitate the change in her eligibility from December 1, 2014 to July 31, 2015 from conditionally Medicaid eligible to Medicaid eligible.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

[REDACTED]

[REDACTED]