



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

## Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004775

[REDACTED]

Dear [REDACTED],

On December 3, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 23, 2015 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### 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: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004775

[REDACTED]

## Issues

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

Did the Marketplace properly determine that you, your spouse and twenty-one-year-old child were not eligible for Medicaid as of September 23, 2015?

Did the Marketplace properly determine that your twenty-year-old child was not eligible for Medicaid as of September 23, 2015?

Did the Marketplace properly determine that you, your spouse and children were not eligible for advance premium tax credits as of September 23, 2015?

## Procedural History

On September 23, 2015 the Marketplace issued an eligibility determination notice that you, your spouse and children are eligible to purchase a qualified health plan at full cost through New York State of Health. The notice stated that you, your spouse and children were not eligible for Medicaid because the household income you provided is over the allowable income limit, and not eligible for advance premium tax credits because you, your spouse and children were already enrolled in or eligible for minimum value employer sponsored insurance (ESI).

On the same day you contacted the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you, your spouse and children were determined eligible for through the Marketplace.

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On December 3, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing. The record is now complete and closed.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself, your spouse and two children.
2. You testified that you plan on filing a 2015 federal income tax return with the tax status of married filing jointly, with your spouse, and will claim any three dependents on that tax return.
3. Your children are twenty and twenty-one years old.
4. You testified that both of your children are full-time students.
5. You currently reside with your spouse, two children and stepchild.
6. According to your September 22, 2015 Marketplace application and testimony, your twenty-one-year-old child has an expected 2015 income of approximately \$2,976.48.
7. According to your September 22, 2015 Marketplace application and testimony, your twenty-year-old child has an expected 2015 income of approximately \$4,647.91.
8. On September 17, 2015 you uploaded an Official Copy of your [REDACTED] [REDACTED] to your Marketplace account. On the advice date of September 11, 2015, you earned \$922.74 in federal taxable wages and year-to-date federal taxable wages of \$13,986.29.
9. On October 26, 2015 you uploaded an Official Copy of your [REDACTED] [REDACTED] to your Marketplace account. On the advice date of October 9, 2015, you earned \$870.99 in federal taxable wages and year-to-date federal taxable wages of \$15,786.48.
10. According to your Marketplace account, you, your spouse and children are enrolled in coverage under an eligible employer-sponsored health plan.
11. You currently reside in Saratoga County, NY.

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

## **Applicable Law and Regulations**

### Modified Adjusted Gross Income (MAGI)

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)).

### Household Income:

The MAGI-based income of a tax dependent, who is not expected to be required to file a tax return for the taxable year in which eligibility for Medicaid is being determined, is not included in the household income of the taxpayer whether or not such tax dependent files a tax return (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(1)(A)). For the 2015 year, a dependent who has yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 will be required to file a tax return (see IRS Revenue Procedure 2014-61).

### 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)).

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For children ages 19 and 20, whose primary residence is with their parents, the applicable household income is 155% of the FPL (Department of Health Administrative Directive 13 OHIP/ADM-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, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, these government-sponsored plans provide minimum essential coverage:

- 1) the Medicare program under part A of title XVIII of the Social Security Act [26 USCS §§ 1395c et seq.]
- 2) the Medicaid program under title XIX of the Social Security Act [26 USCS §§ 1396 et seq.]
- 3) the CHIP program under title XXI of the Social Security Act [26 USCS §§ 1397aa et seq.]
- 4) medical coverage under chapter 55 of title 10, United States Code [10 USCS §§ 1071 et seq.], including coverage under the TRICARE program
- 5) a health care program under chapter 17 or 18 of title 38, United States Code [38 USCS §§ 1701 et seq. or 1801 et seq.], as determined by the Secretary of Veterans Affairs, in coordination with the Secretary of Health and Human Services and the Secretary
- 6) a health plan under section 2504(e) of title 22, United States Code (relating to Peace Corps volunteers)
- 7) the Nonappropriated Fund Health Benefits Program of the Department of Defense, established under section 349 of the National Defense

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Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 1587 note)

(26 USC § 5000A(F)(1)(A).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you, your spouse and twenty-one-year-old child are not eligible for Medicaid.

Generally, the household income for the purposes of calculating a person's eligibility for financial assistance through the Marketplace consists of the sum of income of every individual included in the individual's household. However, the income of an individual who is included in the household of their natural, adopted or step parent and is not expected to be required to file a tax return for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a return.

A dependent is required to file a tax return when their earned income is greater than \$6,300.00. Since the record shows that both of your children's income does not exceed the earned income threshold, your children's income should not be included in your household income.

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 FPL for the applicable family size.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you, your spouse, and twenty-one-year-old child would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$3,268.00 per month.

Your [REDACTED] earnings statements show that you earned \$922.74 in federal taxable wages and year-to-date federal taxable wages of \$13,986.29 as of September 11, 2015, and that you earned \$870.99 in federal taxable wages and year-to-date federal taxable wages of \$15,786.48 as of October 9, 2015.

Based on the earnings statements you submitted, it can be computed that you received a second biweekly earnings statement in the month of July 2015 that you earned \$929.20 in federal taxable wages and year-to-date federal taxable wages of \$14,915.49.

Therefore, the record indicates that you earned \$1,851.94 in federal taxable gross income in the month of July 2015. Since your July 2015 household income

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does not exceed the Medicaid income limit, the Marketplace incorrectly found you, your spouse, and twenty-one-year-old child not eligible for Medicaid.

The second issue is whether the Marketplace properly determined that your twenty-year-old child was not eligible for Medicaid.

Medicaid can be provided through the Marketplace to children residing with their parents, who are 19 or 20, who have a household modified adjusted gross income (MAGI) that is at or below 155% of the FPL for the applicable family size.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, your twenty-year-old child would need to meet the non-financial criteria and have an income no greater than 155% of the FPL, which is \$3,670.00 per month.

Since your July 2015 household income does not exceed the Medicaid income limit, the Marketplace incorrectly found your twenty-year-old child not eligible for Medicaid.

The third issue under review is whether the Marketplace correctly found that you, your spouse and children are not eligible for APTC to help pay for the cost of health insurance through the Marketplace.

To be eligible for APTC, a person must not be eligible for minimum essential coverage outside of the Marketplace. Minimum essential coverage includes Medicaid health insurance coverage through New York State of Health. Since you, your spouse and children are eligible for Medicaid, you are not eligible for advance premium tax credits.

Since the September 23, 2015 eligibility determination does not accurately reflect your July 2015 household income, it is RESCINDED.

The case is REMANDED to the Marketplace to redetermine eligibility based on a household of five and a September 2015 income of \$1,851.94

## **Decision**

The September 23, 2015 eligibility determination notice is RESCINDED.

The case is REMANDED to the Marketplace to redetermine you, your spouse and two children's eligibility based on a household of five and a September 2015 income of \$1,851.94.

**Effective Date of this Decision:** January 08, 2016



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

Your case is returned to the Marketplace to redetermine your eligibility based on the household income information you provided.

The Marketplace will redetermine your household eligibility and issue a new eligibility determination notice.

## **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 September 23, 2015 eligibility determination notice is RESCINDED.

The case is REMANDED to the Marketplace to redetermine you, your spouse and two children's eligibility based on a household five and a September 2015 income of \$1,851.94.

Your case is returned to the Marketplace to redetermine your eligibility based on the household income information you provided.

The Marketplace will redetermine your household eligibility and issue a new eligibility determination notice.

## **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:**

