



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

## Notice of Decision

Decision Date: February 22, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004799

[REDACTED]

Dear [REDACTED]

On February 5, 2016 your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 31, 2015 and September 26, 2015 eligibility determinations.

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).

This page intentionally left blank.



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

## Decision

Decision Date: February 22, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004799

[REDACTED]

## 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 for Medicaid effective August 1, 2015?

Did the Marketplace properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until July 31, 2016?

## Procedural History

On August 31, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were eligible for Medicaid, effective August 1, 2015.

On September 25, 2015, the income information in your account was updated and an application was submitted to the Marketplace on your behalf.

On September 26, 2015 the Marketplace issued a notice of eligibility determination, based on the application filed on September 25, 2015, stating that you were no longer eligible for Medicaid but that your Medicaid coverage would continue until July 31, 2016 because individuals who have been determined eligible for Medicaid remain eligible for benefits for 12 continuous months.

Also on September 26, 2015, your daughter spoke to the Marketplace's Account Review Unit and appealed the eligibility determination insofar as it determined you continuously eligible for Medicaid.

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).

On February 5, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your daughter [REDACTED] appeared on your behalf as your authorized representative. The record was developed during the hearing and remained open for 15 days to allow your authorized representative time to submit proof of your household's income for the month of August 2015.

On February 13, 2016 a copy of your spouse's Social Security Award letter and copies of your paystubs for the month of August 2015 were uploaded to your Marketplace account. These documents were collectively 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) Your Marketplace application states that you file your taxes as married filing jointly with your spouse and that you claim no dependents on your tax return.
- 2) Your authorized representative testified that in August she updated your Marketplace account because your spouse began receiving Medicare. When she went to the income information page, she left it blank because she was unsure what your income was. Your authorized representative further testified that she intended to go back and enter your income information once she confirmed with you and your spouse what that amount would be.
- 3) The August 30, 2015 application listed a monthly household income of \$0.00. That application also stated that you requested your eligibility to be determined based on current monthly income.
- 4) You authorized representative uploaded two paystubs that you received in the month of August. The paystubs were dated August 9, 2015 and August 23, 2015 and were for \$800.00 each.
- 5) You authorized representative uploaded a copy of your spouse's Social Security Benefit award notice stating that on August 12, 2015 he would receive \$734.00.
- 6) Your authorized representative testified that she did not know you had been found eligible for Medicaid but as soon as she found out she attempted to correct the income information in your application.

- 7) Your authorized representative testified that in 2016 you expect to receive \$20,800.00 in annual income from your job and your spouse expects to receive \$839.00 per month from Social Security benefits.
- 8) Your Marketplace application states that you reside in Queens County.

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

## **Applicable Law and Regulations**

### Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

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).

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).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical

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).

care, lack of state residence, failing to provide a valid Social Security number, or having third-party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that you were eligible for Medicaid effective August 1, 2015.

Your Marketplace application states that you file your taxes as married filing jointly with your spouse and that you claim no dependents on your tax return.

Your authorized representative testified that in August she updated your Marketplace account because your spouse began receiving Medicare. When she went to the income information page, she left it blank because she was unsure what your income was and intended to fill it in later.

On August 30, 2015 an application listing a monthly household income of \$0.00, and requesting that your eligibility be determined based on current monthly income was submitted to the Marketplace on your behalf.

On the date of your August 30, 2015 application, the relevant FPL was \$15,930.00 for a two-person 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 FPL for the applicable family size, which is \$1,182.00 per month. Since your income listed an August monthly income of \$0.00, you would have been eligible for Medicaid, using the information provided in your application.

However, your authorized representative testified your income in August was not \$0.00 and she attempted to correct this mistake. You authorized representative provided documentation that shows in the month of August 2015, you received two paychecks that were for \$800.00 each and your spouse received \$734.00 in income from Social Security.

Therefore, your monthly household income for the month of August 2015 was \$2,334.00. Since this amount is greater than the allowable Medicaid limit of \$1,182.00, the August 31, 2015 eligibility determination notice finding you eligible for Medicaid is not supported by the record and is **RESCINDED**.

The second issue is whether your Medicaid coverage should continue until July 31, 2016.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months whether or not their income increases. This is referred to as “continuous coverage.”

Since the August 31, 2015 eligibility determination was issued based on incorrect information and is not supported by the record, the continuous coverage policy should not have been applied to you. Therefore, the September 26, 2015 eligibility determination notice is also RESCINDED.

Your authorized representative testified that in 2016 you expect to receive \$20,800.00 in annual income from your job and your spouse expects to receive \$839.00 per month from Social Security benefits.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility based on two-person household, residing in Queens County with an expected annual income of \$32,546.00.

## **Decision**

The August 31, 2015 and September 26, 2015 eligibility determination notices are RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility based on two-person household, residing in Queens County with an expected annual income of \$32,546.00.

**Effective Date of this Decision:** February 22, 2016

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

You and your spouse were incorrectly found eligible for Medicaid.

Your case is being sent back to the Marketplace to redetermine your eligibility based on the information your authorized representative presented during the hearing. You will receive an eligibility determination notice informing you of your new eligibility.

## **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.

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).

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

### **Summary**

The August 31, 2015 and September 26, 2015 eligibility determination notices are RESCINDED.

You and your spouse were incorrectly found eligible for Medicaid.

Your case is RETURNED to the Marketplace to redetermine your eligibility based on two-person household, residing in Queens County with an expected annual income of \$32,546.00.

Your case is being sent back to the Marketplace to redetermine your eligibility based on the information your authorized representative presented during the

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).



hearing. You will receive an eligibility determination notice informing you of your new eligibility.

## **Legal Authority**

We are sending you this notice in accordance with 45 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).

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

[REDACTED]

[REDACTED]