



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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005459

[REDACTED]

Dear [REDACTED],

On February 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 2015 and December 9, 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 Account ID 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005459

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine in the December 8, 2015 and December 9, 2015 eligibility determinations that you were not eligible for Medicaid, or any other form of financial assistance?

Procedural History

On September 19, 2015, NYSOH issued a notice stating that it could not make a determination regarding your September 18, 2015 application. You were directed to provide income documentation for your household by October 4, 2015, or your eligibility to enroll in health insurance through NYSOH or to receive financial assistance might end.

On December 8, 2015 and December 9, 2015, NYSOH issued eligibility determination notices stating that you were eligible to purchase a qualified health plan at full cost through NYSOH effective January 1, 2016. These determinations were based on your reported annual household income of \$52,547.00.

On December 8, 2015, you contacted NYSOH's Account Review Unit and requested an appeal regarding the amount of financial assistance you were determined eligible to receive.

On February 24, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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Findings of Fact

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

- 1) You testified that you expected to file your 2015 tax return with a tax filing status of single. You will claim no dependents on that tax return, and your application states that you will not be taking any deductions on your 2015 tax return.
- 2) You are seeking insurance only for yourself.
- 3) When NYSOH redetermined your eligibility on December 8, 2015 and December 9, 2015, it relied on an expected annual household income of \$52,547.00. You testified that this amount was not accurate and that you expect to earn less during the upcoming year.
- 4) After you were directed to submit additional income documentation, you submit multiple documents to NYSOH before the October 4, 2015 deadline.
- 5) On October 1, 2015, NYSOH acknowledged receipt of your documentation, but stated that the documentation was insufficient. You were directed to provide additional documentation, without any explanation as to what was deficient in the submitted documents.
- 6) On October 26, 2015 and November 1, 2015, you submitted income documentation.
- 7) On November 2, 2015, NYSOH acknowledged receipt of your additional documentation, but again stated that the documentation was insufficient. You were directed to provide additional documentation, again without any explanation as to what was deficient in the submitted documents.
- 8) On November 12, 2015 and November 14, 2015, you submitted income documentation.
- 9) On November 12, 2015, NYSOH acknowledged receipt of your additional documentation, but again stated that the documentation was insufficient. You were directed to provide additional documentation, again without any explanation as to what was deficient in the submitted documents.
- 10) On December 2, 2015, December 3, 2015, and December 8, 2015, you submitted income documentation.

- 11) On December 8, 2015 and December 9, 2015, NYSOH issued the determinations currently under review.
- 12) You testified that you earn income from four part-time positions. You further testified that income from these position can change intermittently.
- 13) You uploaded documentation from your employment from [REDACTED]. These documents were uploaded to your NYSOH account in response to multiple requests by NYSOH for more information to confirm your annual household income.
- 14) You testified that your only income during September 2015 was your employment from [REDACTED], and you provided additional documentation showing that you earned \$632.50 from that company for that month.
- 15) You provided documentation that confirmed you first received income from the [REDACTED] on October 6, 2015.
- 16) You provided documentation that confirmed income you received from [REDACTED] would not be paid until November 12, 2015.
- 17) You provided documentation that confirmed you first received income from the [REDACTED] for work performed as an election inspector in September 2015 and November 2015. You were paid for this work on October 9, 2015 and December 4, 2015.
- 18) According to NYSOH records, you had no other known employers in September 2015.
- 19) You are seeking to be found eligible for Medicaid effective September 1, 2015.
- 20) Your application states that you live in Kings County.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to

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have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your September 18, 2015 application, that was the 2015 FPL, which was \$ 11,770.00 for a one-person household (80 Federal Register 3236, 3237).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Medicaid

Medicaid can be provided through NYSOH 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)), NY Social Services 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 \$ 11,770.00 for a one-person household (80 Federal Register 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).

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)).

Income Verification

For all individuals whose income is needed to calculate the household’s eligibility, NYSOH must request data that will allow NYSOH to verify the household’s income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility for Medicaid through federal and state data sources, it must attempt to resolve the inconsistency by providing the individual an opportunity to submit an explanation as to any discrepancy and/or satisfactory evidence of income, and an individual must be given a reasonable amount of time to furnish any necessary additional evidence (42 CFR § 435.952(c)(2)).

Legal Analysis

The issue is whether NYSOH properly determined in the December 8, 2015 and December 9, 2015 eligibility determinations that you were not eligible for Medicaid, or any other form of financial assistance.

Eligibility for financial assistance through NYSOH is generally dependent on your expected annual household earnings. However, for applicants who are not currently receiving Medicaid benefits, NYSOH looks not at expected annual earnings but at monthly earnings in the month the application was submitted.

In your case, you submitted the relevant application on September 18, 2015. You identified your current employers at that time as the [REDACTED] (where you worked between September and November 2015), [REDACTED], and the [REDACTED] (where you began working on September 21, 2015).

In response to the September 18, 2015 application, NYSOH issued a notice stating that it could not make a determination regarding this application, and directing you to provide income documentation for your household by October 4, 2015.

The record shows that you submitted income documentation before October 4, 2015. In response to your submission, NYSOH sent you a letter saying more

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information was needed, without specifying what was wrong with what was already available. This pattern was repeated several more times, until eventually, on December 8, 2015 and December 9, 2015, NYSOH issued the determinations currently under review.

After a review of the record, it is determined that your testimony that you earned only \$632.50 in September 2015 was credible and fully supported by the documentation you submitted to NYSOH. You stated at the hearing that you had an employment relationship with four entities, and that only had had resulted in payments that were actually issued to you in September 2015. This is fully supported by the documents you submitted, which clearly show that you did not receive any payments from any employer other than the [REDACTED] in September.

You submitted paystubs from the [REDACTED] showing you earned only \$632.50 in September 2015. You submitted a letter from [REDACTED] showing that your first paycheck would not be issued until November 12, 2015. You submitted a copy of your paycheck from the [REDACTED] for the work you did in September 2015, which had an issue date of October 9, 2015.

The last document needed to confirm your earnings in September 2015 from all of the employers identified on your application was uploaded on November 12, 2015, when you submitted a faxed letter from the [REDACTED] that stated you worked a single day of work as an inspector, for which you were paid on October 9, 2015.

Additionally, you later submitted your first paystub from the [REDACTED], which showed you first worked there from September 22, 2015 to October 5, 2015, and that you were paid for that period on October 6, 2015; you had not even begun working there at the time of your application. You also submitted a letter from the [REDACTED] that showed you worked for one day in November 2015.

Therefore, as of November 12, 2015, you had submitted sufficient documentation to explain any discrepancy in your application and to evaluate your eligibility for Medicaid based on monthly income.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified and your uploaded documentation supports that your employment with the [REDACTED] provided your only income for the month of September 2015, totaling \$632.50.

Since the December 8, 2015 and December 9, 2015 eligibility determinations failed to redetermine your eligibility for financial assistance, they are **RESCINDED**.

Instead, your case is **RETURNED** to NYSOH to determine your eligibility for financial assistance based on a monthly income of \$632.50 in September 2015, for a one-person household in Kings County.

Decision

The December 8, 2015 eligibility determination and December 9, 2015 eligibility determinations are **RESCINDED**.

Your case is **RETURNED** to NYSOH to determine your eligibility for financial assistance based on a monthly income of \$632.50 in September 2015, for a one-person household in Kings County, and to facilitate your transition to the appropriate plan.

Effective Date of this Decision: May 6, 2016

How this Decision Affects Your Eligibility

You may remain in your current plan until NYSOH can redetermine your eligibility for financial assistance in September 2015 and facilitate the smooth transition of your coverage to the appropriate plan.

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 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 Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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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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- By fax: 1-855-900-5557

Summary

The December 8, 2015 eligibility determination and December 9, 2015 eligibility determinations are RESCINDED.

Your case is RETURNED to NYSOH to determine your eligibility for financial assistance based on a monthly income of \$632.50 in September 2015, for a one-person household in Kings County, and to facilitate your transition to the appropriate plan.

You may remain in your current plan until NYSOH can redetermine your eligibility for financial assistance in September 2015 and facilitate the smooth transition of your coverage to the appropriate plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

