



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

Notice of Decision

Decision Date: February 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005475

[REDACTED]

Dear [REDACTED],

On February 19, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 9, 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 and 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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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 to enroll in the Essential Plan effective January 1, 2016?

Did the Marketplace properly determine that you were not eligible for Medicaid, as of December 8, 2015?

Procedural History

On December 8, 2015, the Marketplace received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan.

Also on December 8, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as you were not eligible for Medicaid.

On December 9, 2015, the Marketplace issued an eligibility determination based on the December 8, 2015 application, stating that you were eligible to enroll in the Essential Plan, effective January 1, 2016. It further stated that you were not eligible for Medicaid because your income was over the allowable income limit for that program.

On February 19, 2016, 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 a copy of your 2015 tax return. Later that day, you faxed a copy of your 2015 tax return to the Appeals Unit and it was incorporated into the record as Appellant's Exhibit #1. The record is now closed.

Findings of Fact

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

- 1) You testified that you file your taxes with a tax filing status of married filing jointly. You claim no dependents on your tax return.
- 2) You are seeking insurance for yourself.
- 3) The application that was submitted on December 8, 2015 listed an annual household income of \$29,861.00, consisting of \$18,521.00 your spouse earns from his employment and \$11,340.00 your spouse receives from Social Security benefits. Your application also states that you have tax deductions however no amount was entered.
- 4) You testified that your spouse receives Social Security benefits and also has a job as a [REDACTED] where he is paid per job.
- 5) You testified that you and your spouse own a [REDACTED] and you do not know how much income you will receive from the [REDACTED] until you file your taxes. You further testified that it has been a very difficult year for the [REDACTED] because of the expenses it takes to [REDACTED]
- 6) You faxed in a copy of your 2015 tax return which lists an adjusted gross income of -\$861.00. This income consists of \$17,628.00 that your spouse received from his job, -\$3,000.00 from capital gain (or loss), and -\$15,489.00 in [REDACTED] income (or loss).
- 7) Your 2015 tax return also lists Social Security benefits in the annual amount of \$12,563.00.
- 8) Your application states that you live in Monroe County.

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

Applicable Law and Regulations

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Essential Plan

The Marketplace must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), N.Y. Soc. Serv. Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). 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).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

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 is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were eligible for the Essential Plan, effective January 1, 2016.

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The application that was submitted on December 8, 2015 listed an annual household income of \$29,861.00 and the eligibility determination relied upon that information.

You are in a two-person household. You file your taxes with a tax filing status of married filing jointly. You claim no dependents on your tax return.

The Essential Plan is provided through the Marketplace to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$29,861.00 is 187.45% of the 2015 FPL, the Marketplace properly found you to be eligible for the Essential Plan based on the information in your application.

The second issue is whether the Marketplace properly determined that you were not eligible for Medicaid.

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. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$29,861.00 is 187.45% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 9, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan and not eligible for Medicaid, it is correct and is AFFIRMED.

However, at the hearing you provided documentation that your annual household income is different than what was attested to in your application on December 8, 2015 because it did not take into consideration the income that you and your spouse receive from your [REDACTED]. You faxed in a copy of your 2015 tax return which listed incomes of \$17,628.00 that your spouse received from his job, -\$3,000.00 from capital gain (or loss), and -\$15,489.00 in [REDACTED] income (or loss). These incomes result in an adjusted gross income of -\$861.00.

In order to calculate your MAGI-based income for purposes of determining your eligibility for financial assistance, the Marketplace takes your adjusted gross income and adds to it any relevant amount excluded from gross income, including an amount equal to the portion of the taxpayer's Social Security benefits which is not included in your gross income. Your 2015 tax return lists Social Security benefits in the annual amount of \$12,563.00 which were not included in the adjusted gross income. Therefore, your MAGI-based income for

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the year that you submitted your December 8, 2015 application in was \$11,702.00 (\$12,563.00 in Social Security benefits plus -\$861.00 adjusted gross income).

Since the record now contains a more accurate representation of what your expected annual household income is, your case is RETURNED to the Marketplace to redetermine your eligibility for coverage based on a two-person household, residing in Monroe County with an annual household income of \$11,702.00.

Decision

The December 9, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for coverage based on a two-person household, residing in Monroe County with an annual household income of \$11,702.00.

Effective Date of this Decision: February 24, 2016

How this Decision Affects Your Eligibility

You were eligible to enroll in the Essential Plan based on the information that was listed in your application as of December 8, 2015.

Your case is being sent back to the Marketplace to redetermine your eligibility for 2016 coverage based on the information you provided during your hearing.

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

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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 December 9, 2015 eligibility determination notice is **AFFIRMED**.

You were eligible to enroll in the Essential Plan based on the information that was listed in your application as of December 8, 2015.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for coverage based on a two-person household, residing in Monroe County with an annual household income of \$11,702.00.

Your case is being sent back to the Marketplace to redetermine your eligibility for coverage based on the information you provided during your hearing.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

