



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

Notice of Decision

Decision Date: April 11, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005479

[REDACTED]

Dear [REDACTED]

On February 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 7, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of 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: April 11, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005479



Issue

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

Did the Marketplace properly determine that you were not eligible for Medicaid for August 1, 2015 through October 31, 2015?

Procedural History

On November 6, 2015, the Marketplace received your updated application for financial assistance.

On November 7, 2015, a determination was issued finding you not eligible to receive Medicaid for the months of August 1, 2015, through October 31, 2015. The determination found you ineligible for Medicaid because the monthly household income you provided of \$1,900.00 was over the allowable income limit of \$1,354.00.

On November 11, 2015, an eligibility determination was made finding you eligible for Medicaid effective November 1, 2015. This was based upon your reported household income of \$8,232.00.

On December 9, 2015, you spoke to the Marketplace's Account Review Unit and appealed the November 7, 2015 eligibility determination notice insofar as it denied you retroactive Medicaid for the months of August, September, and October.

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On December 29, 2015, an eligibility determination was made finding that you are not a resident of New York State, and are not qualified to enroll through the NY State of Health. Your eligibility would end effective January 31, 2016.

On February 17, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) You testified that you will be filing your 2015 tax return single and that you will claim no dependents on that tax return.
- 2) You were found eligible for Medicaid effective November 1, 2015. This was based upon your reported household income of \$8,232.00.
- 3) You are seeking to be found eligible for Medicaid for the months of August, September, and October, 2015.
- 4) On November 4, 2015, the Marketplace received a two page fax from you which included a policy statement from [REDACTED]. The letter dated October 23, 2015, indicates that you currently receive Disability Retirement Insurance in the amount of \$1,900.00 per month for a maximum of 24 months until January 24, 2017.

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

Applicable Law and Regulations

Medicaid

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)).

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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 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)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

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)).

“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)).

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were not eligible for Medicaid for August 1, 2015 through October 31, 2015.

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You were initially found eligible for Medicaid in the November 11, 2015 eligibility determination notice. According to this notice, your coverage with Medicaid was effective as of November 1, 2015.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Since you were found eligible for Medicaid coverage effective November 1, 2015, you therefore could only be found eligible for retroactive coverage for the three months prior to your first month of eligibility for Medicaid.

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 in August, September, and October, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during the months under review.

On November 4, 2015, the Marketplace received a two page fax from you which included a policy statement from [REDACTED]. The letter dated October 23, 2015, indicates that you currently receive Disability Retirement Insurance in the amount of \$1,900.00 per month for a maximum of 24 months until January 24, 2017.

Since your monthly income of \$1,900.00 was more than the \$1,354.00 monthly Medicaid limit for August, September, and October 2015 the Marketplace properly determined that you were not eligible for Medicaid coverage during those months. Therefore, the November 7, 2015 eligibility determination stating that you were not eligible for Medicaid for August 1, 2015 through October 31, 2015, is correct and is AFFIRMED.

Decision

The Marketplace's November 7, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

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 decision does not change your eligibility. You are not eligible for Medicaid for the months of August, September, and October 2015.

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:
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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace's November 7, 2015 eligibility determination is **AFFIRMED**.

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This decision does not change your eligibility. You are not eligible for Medicaid for the months of August, September, and October 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

