



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

Notice of Decision

Decision Date: February 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005486

[REDACTED]

Dear [REDACTED],

On February 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 28, 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 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(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).

This page intentionally left blank.



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

Decision

Decision Date: February 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005486

[REDACTED]

Issues

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

Did the Marketplace properly determine that you and your spouse were eligible for Medicaid, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for retroactive Medicaid coverage as of May 1, 2015, and not as of April 1, 2015?

Procedural History

The Marketplace received your updated application for health insurance on June 8, 2015, in which you indicated that you needed help with your medical bills for the three previous months.

On June 9, 2015, the Marketplace sent a written request for income documentation to confirm your eligibility.

On June 24, 2015, the Marketplace received a facsimile that included a letter of earnings through your self-employment as a contractor, [REDACTED], [REDACTED], for the months of March 2015, April 2015, and May 2015.

On June 30, 2015, the Marketplace issued a notice confirming receipt of documentation from you to prove your income, which the notice stated was insufficient to resolve the request. The notice further stated that additional information was required to confirm your income.

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 June 30, 2015, the Marketplace sent another written request for income documentation to confirm your eligibility. On July 15, 2015, you faxed in a copy of page one of your 2014 Form 1040 showing an annual household income of \$15,772.00 and your Schedule C showing your profit and loss from business that year.

On August 12, 2015, the Marketplace received a second copy of page one of your 2014 Form 1040 and Schedule C showing an annual household income of \$15,772.00.

On August 17 and 20, 2015, the Marketplace again sent a written request for income documentation, this time from you and your spouse by September 2, 2015.

On August 23, 2015, your complete 2014 federal tax return was faxed to the Marketplace

On August 28, 2015, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were eligible for Medicaid, effective August 1, 2015.

Also on August 28, 2015, the Marketplace issued a notice of eligibility determination indicating that you were eligible for Medicaid for May 1, 2015 through May 31, 2015, because your monthly household income of \$1,664.33 was below the allowable monthly income limit of \$1,832.00 to be eligible for Medicaid.

On September 19, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid coverage for June 1, 2015 through July 31, 2015 because your monthly household income of \$1,664.33 was below the allowable monthly income limit of \$1,832.00 to be eligible for Medicaid. This notice also stated that your spouse was eligible for Medicaid for May 1, 2015 through July 31, 2015 for the same reason.

On December 9, 2015, you spoke to the Marketplace's Account Review Unit and appealed the August 28, 2015 and September 19, 2015 eligibility determinations because the Marketplace had not yet addressed your eligibility for Medicaid starting the month of April 2015.

On February 18, 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 hearing.

Findings of Fact

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

- 1) You Marketplace account shows that you anticipate filing your 2015 tax return with a tax filing status of married filing jointly. You will not be claiming any dependents on that tax return.
- 2) On June 21, 2015, you provided to the Marketplace a letter of earnings issued by you as a self-employed contractor, [REDACTED] which reflected that you received (1) \$2,225.00 during March 2015, (2) \$0.00 during April 2015, and (3) \$1,305.00 during May 2015.
- 3) On June 30, 2015, the Marketplace determined this document to be invalid because it was not in the format of a three month detailed/itemized business earnings and expenses report from accounting software.
- 4) The income documents regarding your 2014 income tax return consisting of the first page of your 2014 Form 1040 and corresponding Schedule C were received on July 15, 2015 and August 12, 2015. Your Marketplace account indicates that the documents were deemed invalid because the tax return was not signed and did not show it had been filed.
- 5) Based on your income documentation submitted on August 23, 2015, you were found eligible for retroactive Medicaid coverage beginning May 1, 2015 through May 31, 2015. Also on August 19, 2015, the Marketplace issued an eligibility determination notice finding you eligible for retroactive Medicaid for June 1, 2015 through July 31, 2015.
- 6) You testified that you were seeking retroactive Medicaid coverage during April 2015 because you had incurred out-of-pocket medical expenses that month.
- 7) You testified you felt that this determination was unfair because you provided verified income through a 2014 tax return to the Marketplace on July 15, 2015, even though the Marketplace deemed it to be insufficient to resolve your request for health insurance coverage when it contained your and your spouse's personal identifiers, such as name, address, and Social Security number, your profits and losses from your business, and your adjusted gross income.

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

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).

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)).

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 (79 Fed. Reg. 3593).

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).

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)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you and your spouse were eligible for Medicaid as of August 1, 2015.

You are in a two-person household for purposes of this analysis. This is because you expect to file your 2015 tax return with a tax filing status of married filing jointly and will not claim any dependents on that tax return.

You were found eligible for Medicaid coverage in the August 28, 2015 eligibility determination notice, which was based upon the full, signed 2014 Form 1040 that you submitted on August 23, 2015. However, we note that the relevant information needed to confirm your eligibility for Medicaid was filed on July 15, 2015, and consisted of page one of your 2014 Form 1040, which included such personal identifiers as your and your spouse's name, address, and Social Security number, and your adjusted gross income after your business losses were deducted that had been carried over from the corresponding Schedule C you had also provided. As such, we find that your application was sufficiently complete as of July 15, 2015.

Since it is reasonable to infer that your income in July 2015 on average was \$1,664.33, which is below the allowable monthly income limit of \$1,832.00 to be eligible for Medicaid, your and your spouse's Medicaid eligibility should have been made effective the first day of that month; that is, as of July 1, 2015. Accordingly, the August 28, 2015 eligibility redetermination notice stating you and your spouse were Medicaid eligible as of August 1, 2015 is MODIFIED to state that you were both Medicaid eligible as of July 1, 2015.

Since the August 28, 2015 eligibility determination notice regarding your eligibility for retroactive Medicaid during May 2015 was correct and needs no further review, it REMAINS IN EFFECT.

However, the change to a July 1, 2015 start date of your Medicaid eligibility does necessitate review of the September 19, 2015 eligibility determination notice insofar as you and your spouse were determined eligible for retroactive Medicaid from July 1, 2015 through July 31, 2015. Since both of your respective eligibilities for Medicaid is being made effective July 1, 2015 by this decision, the September 19, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid from June 1, 2015 through June 30, 2015; and to further state that your spouse was eligible for Medicaid from May 1, 2015 through June 30, 2015.

The second issue under review is whether you were eligible for Medicaid retroactively to April 1, 2015. The record reflects that only you incurred medical expenses that month and you were already determined eligible for retroactive

Medicaid for the months of May 2015 and June 2015. Therefore, our review is limited to your eligibility for retroactive Medicaid in April 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 your Medicaid eligibility date is being modified to be effective July 1, 2015, the three previous months back to April 2015, must be considered.

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 April 2015, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, or \$1,832.00 per month. We note that there is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during April 2015.

You submitted a letter of earnings through self-employment, [REDACTED], which reflects that you received \$0.00 during April 2015; however, the Marketplace did not deem that letter sufficient enough to validate your income that month. Nonetheless, the credible evidence of record reflects that your modified adjusted gross income during April 2015 was on average \$1,664.33, as with all other months in 2015.

Therefore, the matter is RETURNED to the Marketplace to redetermine your eligibility for retroactive Medicaid for the month of April 2015 using an average monthly income of \$1,664.33 for a two-person household and to notify you of its redetermination accordingly.

Decision

The Marketplace's August 28, 2015 eligibility redetermination notice stating you and your spouse were Medicaid eligible as of August 1, 2015 is MODIFIED to state that you were both Medicaid eligible as of July 1, 2015.

The Marketplace's August 28, 2015 eligibility determination notice regarding your eligibility for retroactive Medicaid during May 2015 REMAINS IN EFFECT.

The Marketplace's September 19, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid from June 1, 2015 through June 30, 2015; and to further state that your spouse was eligible for Medicaid from May 1, 2015 through June 30, 2015.

The matter is RETURNED to the Marketplace to redetermine only your eligibility for retroactive Medicaid from April 1, 2015 through April 30, 2015, using an average monthly income of \$1,664.33 for a two-person household, and to notify you of its redetermination accordingly.

Effective Date of this Decision: February 29, 2016

How this Decision Affects Your Eligibility

You and your spouse are eligible for Medicaid, effective July 1, 2015.

You and your spouse were eligible for retroactive Medicaid from May 1, 2015 through June 30, 2015.

Your case is being returned to the Marketplace to redetermine only your eligibility for retroactive Medicaid from April 1, 2015 through April 30, 2015, using an average monthly income of \$1,664.33 for a two-person household. The Marketplace will notify you of its redetermination.

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 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).

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 Marketplace's August 28, 2015 eligibility redetermination notice stating you and your spouse were Medicaid eligible as of August 1, 2015 is MODIFIED to state that you were both Medicaid eligible as of July 1, 2015.

The Marketplace's August 28, 2015 eligibility determination notice regarding your eligibility for retroactive Medicaid during May 2015 REMAINS IN EFFECT.

The Marketplace's September 19, 2015 eligibility determination notice is MODIFIED to state that you were eligible for Medicaid from June 1, 2015 through June 30, 2015; and to further state that your spouse was eligible for Medicaid from May 1, 2015 through June 30, 2015.

The matter is RETURNED to the Marketplace to redetermine only your eligibility for retroactive Medicaid from April 1, 2015 through April 30, 2015, using an average monthly income of \$1,664.33 for a two-person household, and to notify you of its redetermination accordingly.

You and your spouse are eligible for Medicaid, effective July 1, 2015.

You and your spouse were eligible for retroactive Medicaid from May 1, 2015 through June 30, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

