



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

Notice of Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006051



Dear [REDACTED],

On April 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 8, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

We are sending you this notice in accordance with 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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did the Marketplace properly determine that you were eligible to enroll in the Essential Plan as of January 8, 2016?

Did the Marketplace properly determine that you are not eligible for Medicaid as of January 8, 2016?

Did the Marketplace properly determine that your child was not eligible for Medicaid as of January 8, 2016?

Procedural History

On January 7, 2016, you reapplied for health insurance through the Marketplace. The Marketplace rendered a preliminary eligibility determination that you are eligible to enroll in an Essential Plan with a monthly premium of \$20.00 per month, and your child is eligible to enroll in Child Health Plus with a monthly premium of \$9.00.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the amount of financial assistance you were determined eligible to receive.

On January 8, 2016, the Marketplace issued an eligibility determination notice that you are eligible to enroll in the Essential Plan, and your child is eligible to enroll in Child Health Plus for a cost of \$9.00 per month, effective February 1,

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2016. The notice also stated that you and your child were not eligible for Medicaid because your household income exceeded the allowable income limit.

On April 11, 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. The record is complete and closed.

Findings of Fact

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

1. You testified that you are applying for health insurance through the Marketplace for you and your four-year-old child.
2. You testified that you plan on filing your 2016 federal income tax return with the tax status of Head of Household (with a qualifying individual) and will be claiming one dependent, your child, on that return.
3. According to your January 7, 2016 Marketplace application, your 2016 expected annual household income is \$29,120.00.
4. You testified that based on your monthly expenses, you are not able to afford the monthly health insurance premiums.
5. You currently reside in Bronx County, NY.
6. You testified that you are currently employed.
7. On March 24, 2016, you faxed income documentation to the Marketplace (Document [REDACTED]) You were issued:
 - a. \$980.12 in federal taxable wages on January 14, 2016
[REDACTED]
 - b. \$1,035.00 in federal taxable wages on January 28, 2016
[REDACTED]

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

Applicable Law and Regulations

Essential Plan

The Marketplace must generally determine an applicant eligible for the Essential Plan (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

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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)).

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).

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).

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).

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Health Administrative Directive 13 OHIP/ADM-03).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Hardship Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing a qualified health plan QHP. Such an exemption may be granted if that person can show that she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a qualified health plan (45 CFR § 155.605 (a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were eligible for the Essential Plan as of January 8, 2016.

You expect to file your 2016 federal tax return with the tax status of Head of Household (with a qualifying individual) and claim one dependent on that return. Therefore, you are in a two-person household.

In the application that was submitted on January 7, 2016 you attested to an annual household income of \$29,120.00 and the eligibility determination issued on January 8, 2016 relied on this information.

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 \$29,120.00 is 182.80% of the 2015 FPL, the Marketplace properly found you to be eligible for the Essential Plan. An individual who is eligible to enroll in the Essential Plan.

The second issue is whether the Marketplace properly determined that you are not eligible for Medicaid as of January 8, 2016.

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 \$29,120.00 is 182.80% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 per month. According to the record, you were issued \$2,015.12 in federal taxable wages in January 2016. Therefore, you did not qualify for Medicaid in January 2016.

The third issue under review is whether the Marketplace properly determined that your child was not eligible for Medicaid as of January 8, 2016.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size.

To be eligible for Medicaid, your four-year-old child would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,045.00 per month.

According to the record, your household income was \$2,015.12 in January 2016. Therefore, the Marketplace improperly found your four-year-old child not eligible for Medicaid in January 2016.

Under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus.

The Marketplace's January 8, 2016 eligibility determination is AFFIRMED insofar as you being found eligible to enroll in the Essential Plan and ineligible for Medicaid.

The Marketplace's January 8, 2016 eligibility determination is RESCINDED insofar as your child being found eligible for Child Health Plus with a monthly cost of \$9.00 and not 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).

The case is RETURNED to the Marketplace to effectuate your child's Medicaid coverage.

Decision

The Marketplace's January 8, 2016 eligibility determination is AFFIRMED insofar as you being found eligible to enroll in the Essential Plan and ineligible for Medicaid.

The Marketplace's January 8, 2016 eligibility determination is RESCINDED insofar as your child being found eligible for Child Health Plus with a monthly cost of \$9.00 and not eligible for Medicaid.

The case is RETURNED to the Marketplace to effectuate your child's Medicaid coverage, effective January 1, 2016.

Effective Date of this Decision: May 4, 2016

How this Decision Affects Your Eligibility

You remain eligible to enroll in an Essential Plan through the Marketplace.

You remain not eligible to enroll in Medicaid.

Your child is eligible for Medicaid effective January 1, 2016.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

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 Marketplace's January 8, 2016 eligibility determination is **AFFIRMED** insofar as you being found eligible to enroll in the Essential Plan and ineligible for Medicaid.

The Marketplace's January 8, 2016 eligibility determination is **RESCINDED** insofar as your child being found eligible for Child Health Plus with a monthly cost of \$9.00 and not eligible for Medicaid.

The case is **RETURNED** to the Marketplace to effectuate your child's Medicaid coverage, effective January 1, 2016.

Your child is eligible for Medicaid effective January 1, 2016.

If you wish to be considered for a hardship exemption, which would exempt you from paying a penalty for not having health insurance, consult the Federal Marketplace website (www.healthcare.gov) for additional information and an application.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

