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

Notice of Decision

Decision Date: July 28, 2014

NY State of Health Number: [redacted]
Appeal Identification Number: AP000000000611

[redacted]

Dear [redacted],

On June 3, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 25, 2014 and April 18, 2014 eligibility determinations.

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 notice.

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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Issue(s)

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

Did the Marketplace properly determine that [redacted] was eligible to enroll in Medicaid as of January 1, 2014, or eligible for an advance premium tax credit (APTC) and cost-sharing reductions (CSR) as of January 25, 2014?

Procedural History

You applied for health insurance through the Marketplace for yourself, but not for your spouse, on October 7, 2013.

On October 8, 2013, the Marketplace made a preliminary determination that you were eligible for Medicaid beginning on January 1, 2014. No notice of eligibility determination was issued.

On December 12, 2013, the application was updated with additional information and to ask for health insurance for your spouse, who has had Medicare since May 1, 2011. That application showed that you had Medicaid and that your Medicaid status was "active." On June 21, 2014, the Marketplace issued a notice denying your spouse's application for insurance on grounds that he was "already enrolled in or eligible for a public insurance program such as Medicaid, Tricare, Veteran's or another program."

On January 19, 2014, the application was again updated to show that your household income had increased. On January 25, 2014, the Marketplace issued an eligibility determination on the "application for health insurance dated January 19, 2014." It stated that you were eligible to enroll in a qualified health plan (QHP) with an advance

premium tax credit (APTC) of up to $244.00 per month and eligible for cost-sharing reductions. That notice gave you until March 31, 2014 to select a QHP.

On April 18, 2014, the Marketplace issued another notice of eligibility determination. It also said that you could enroll in a QHP with CSR and with up to $244.00 monthly of APTC, but it gave you until June 26, 2014 to select a QHP.

On April 18, 2014, you spoke with the Marketplace Customer Service Unit and appealed the January 25, 2014 and April 18, 2014 eligibility determinations.

On June 3, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for 15 days, until June 18, 2014, for the sole purpose of providing you an opportunity to submit additional evidence relating to an expected lesser income for 2014.

As of June 18, 2014, you had not provided the Appeals Unit with any documentation. As such, the record was closed as of that date.

Findings of Fact

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

1) The household consists of you and your husband. You plan to file your 2014 Federal tax return as married filing jointly (Appellant's Testimony of 6/3/2014).

2) On October 7, 2013, you stated in your Marketplace application that your 2013 earned income was $250.00 and that your husband's 2013 Title II income was $14,700.00. You stated that your expected 2014 income would be the same as 2013 (Exhibit 5).

3) On October 8, 2013, the Marketplace found that you were Medicaid eligible, based on a household income of $14,950 (Exhibit 7).

4) On December 12, 2013, when your spouse applied for coverage, the account indicated that you had active Medicaid (Exhibit 8).

5) You reported a change in income in your Marketplace account on January 19, 2014 because you got a new job. You reported that you expected to earn $9,535.50 during 2014 (Exhibit 9; Appellant's Testimony of 6/3/2014).

6) This reported change in your income increased the household's income to $24,235.50 (Exhibit 9).

7) Your Marketplace account indicated on January 19, 2014, that you were entitled to a special enrollment period and gave as the reason “Loss of essential health coverage or will lose coverage” (Exhibit 9).

8) You testified that you want your current active Medicaid enrollment to continue (Appellant Testimony of 6/3/2014).

9) You testified that you used your Medicaid insurance card for food stamps and for medical treatment in April 2014 without any problem (Appellant’s Testimony of 6/3/2014).

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

Applicable Law and Regulations

Medicaid is available to a household that has a modified adjusted gross income (MAGI) household income under 138% of the Federal poverty level (FPL) (42 CFR 435.218).

During October 2013, the FPL level for a two-person household was $15,510.00.

Under New York’s Social Services Law, a person who is found eligible for Medicaid based on her household’s modified adjusted gross income (MAGI) but loses that eligibility “for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number” keeps their Medicaid for twelve months, “provided that federal financial participation in the costs of such assistance is available” (Soc. Serv. Law § 366(4)(c)). This provision is referred to as “continuous coverage” and the twelve-month period of continuous coverage is based on the date of Medicaid eligibility.

People who receive Medicaid are not eligible for an advance premium tax credit (APTC) or cost-sharing reductions (CSR) since they have active insurance coverage in the system (*see* 45 CFR § 155.305(f); 26 CFR 1.36B-2).

Legal Analysis

There are two members of your household: you and your husband.

When you applied for insurance on October 7, 2013, you reported that your 2013 household income was $14,950.00 and that your expected 2014 household income would be the same as 2013. That income equals 96.39% of the 2013 FPL for a two-person household. Since 138% is the income threshold for Medicaid, the Marketplace properly determined that at 96.39% you qualified for Medicaid.

On October 8, 2013, the Marketplace system indicated a Medicaid start date of January 1, 2014 and an end date of December 31, 2014. These twelve months of coverage are consistent with the continuous Medicaid coverage section of the New York Social Services Law.

On December 12, 2013, the Marketplace system showed you as having “active” Medicaid enrollment.

When you found a job, you changed your Marketplace application to include your additional earnings. Your application was changed on January 19, 2014, to bring your total household income to $24,235.50. This equals 156.26% of the 2013 FPL, which is too high to qualify for Medicaid.

If your household income had been $24,235.50 when you first applied for health insurance, you would not have been given Medicaid. But your Medicaid began on January 1, 2014, and because of the continuous coverage part of the law, having the higher income on a later date did not take you out of Medicaid.

On June 3, 2014, you testified that you wanted to keep your Medicaid coverage, and that testimony is believable. The January 19, 2014 application says that you lose coverage on April 17, 2014, but the record, as developed does not explain that, and it is not believable. Under the continuous coverage part of the law, you keep your Medicaid coverage for a full year.

A person who has Medicaid coverage is not eligible for APTC or CSR. Since you have Medicaid, you cannot get APTC or CSR until your Medicaid ends. Therefore, the January 25, 2014 determination saying that you can get APTC and CSR is wrong and it must be MODIFIED (changed) to say that you have Medicaid that began on January 1, 2014.

The April 18, 2014 determination also says you get APTC and CSR, so it also must be MODIFIED to say that you have Medicaid coverage that began on January 1, 2014.

Continuous coverage lasts only one year, so when you apply for your 2015 health insurance, the kind of coverage you get, and the amount you pay for it, will depend on the insurance plan you choose and your household income at that time.

Decision

The January 25, 2014 and April 18, 2014 determinations are MODIFIED to state that the appellant has Medicaid coverage, that her coverage began on January 1, 2014, and that she is not eligible for an advance premium tax credit or for cost-sharing reductions because she has Medicaid coverage.

Effective Date of this Decision: July 28, 2014

How this Decision Affects Your Eligibility

Your Medicaid coverage began on January 1, 2014 and it continues until December 31, 2014.

You cannot get an advance premium tax credit or cost-sharing reductions while you are on Medicaid.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Submit an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this Decision.

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 January 25, 2014 and April 18, 2014 determinations are MODIFIED to state that the appellant has Medicaid coverage, that Medicaid coverage began on January 1, 2014, and that she is not eligible for an advance premium tax credit or for cost-sharing reductions because she has Medicaid coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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