



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

Notice of Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000666

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On June 25, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 29, 2014 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 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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[REDACTED]
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[REDACTED]

Issue

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

Did the Marketplace properly determine that [REDACTED] household was eligible for Medicaid as of April 21, 2014?

Procedural History

You applied for health insurance through the Marketplace on October 25, 2013.

On March 22, 2014, the Marketplace issued a notice stating that you were not eligible to receive financial assistance to help pay for the cost of insurance because your household was enrolled in third-party health insurance coverage.

On March 27, 2014, the Marketplace issued a notice stating that your household was eligible for an advance premium tax credit.

On April 29, 2014, the Marketplace issued an eligibility determination in your case. It said that you and the members of your household were eligible for Medicaid because your household income of \$26,920.00 was below the income limit for Medicaid.

On May 21, 2014, you spoke with the Marketplace's Customer Service Unit and appealed that determination.

The Marketplace sent you a Notice of Telephone Hearing on June 3, 2014 for a scheduled telephone hearing on June 25, 2014.

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).

Between June 3, 2014 and June 23, 2014, you reapplied for health insurance coverage through the Marketplace seven times. You were determined to be eligible for Medicaid under Continuous Coverage in each of the redeterminations.

On June 25, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. [REDACTED], your Authorized Representative, also attended the hearing. 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 initially applied for health insurance through the Marketplace on October 25, 2013, without requesting financial assistance. In that application, your household was determined eligible to enroll in a qualified health plan through the Marketplace.
- 2) On March 22, 2014, the Marketplace issued an eligibility redetermination in your case stating that you were not eligible to receive financial assistance to help pay for the cost of insurance because your household was enrolled in third-party health insurance coverage. However, on March 27, 2014, the Marketplace issued a notice stating that your household was eligible for an advance premium tax credit.
- 3) During April 2014, you and your household were disenrolled from your health insurance plan, but this was not at your request. You called the Marketplace for information, and a representative in the Customer Service Unit reviewed your application with you.
- 4) On April 21, 2014, a representative with the Marketplace's Customer Service Unit changed your expected household income from \$38,720.00 to \$26,920.00.
- 6) On June 25, 2014, you testified that your household income is not \$26,920.00 and that you do not why Customer Service put that number in your application.
- 6) Since the April 21, 2014 eligibility determination, your household has been eligible for Medicaid under continuous coverage, even though the income in your application has been corrected to a higher figure.

- 7) Although you have been determined eligible for Medicaid, you have been unable to enroll in a Medicaid Managed Care Plan.
- 8) You expect to file your 2014 federal tax return jointly with your spouse and to claim your three children as dependents.
- 9) You and your spouse are both self-employed consultants therefore your income can vary.
- 10) You designated your spouse as your Authorized Representative at the time of the hearing. As an Authorized Representative, your spouse testified on your behalf.

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

Applicable Law and Regulations

Medicaid can be provided to people 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 household income that is at or below 138 percent FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR 435.911(b)(1), 42 CFR 435.603(d)(4)).

A tax filer is eligible for APTC if (1) the tax filer is expected to have a household income of at least 100% percent but not more than 400% of the Federal Poverty Level (FPL), and (2) the tax filer expects to claim a personal exemption deduction on his or her tax return for an applicant who meets the eligibility requirements to enroll in a qualified health plan and is not eligible for minimum essential coverage except for coverage in the individual market (45 CFR § 155.305(f); 26 CFR § 1.36B-2).

The Marketplace provides special enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and change QHPs (45 CFR § 155.420(a)(1)). One circumstance under which authorization of a special enrollment period is appropriate is when a person's "enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous" and arises from a Marketplace error (45 CFR § 155.420 (d)(4)). When this happens, the Marketplace is authorized to "take such action as may be necessary to correct or eliminate the effect of such error."

Legal Analysis

Of the eligibility requirements listed above, the only one currently at issue is the income requirement.

During March 2014, the Marketplace issued determination that you were either ineligible for financial assistance (because you were enrolled in third-party health insurance) or were eligible for an advance premium tax credit.

When you spoke with Marketplace Customer service during April to inquire about a coverage problem, your account was changed to indicate a household income of \$26,920.00. You credibly testified that this income figure was not correct, and that you did not want it in your application, and that your expected income was considerably higher.

Since the initial Medicaid determination was based upon an incorrect figure, and since there appears to have been an error by the Marketplace, the case is remanded to the Marketplace to ascertain your household income and redetermine eligibility, if it has not already done so.

Additionally, you are granted a special enrollment period during which you may enroll in a qualified health plan if you have not already done so. The special enrollment period runs for 60 calendar days from the effective date of this Decision (see below).

Decision

The eligibility redeterminations made between June 3, 2014 and June 23, 2014 are RESCINDED insofar as they continued Medicaid coverage for you and your spouse.

The case is returned to the Marketplace to redetermine your eligibility for health insurance on a corrected household income, if it has not already done so.

You have 60 calendar days from the effective date of this Decision to enroll in a qualified health plan through the Marketplace, if you have not already done so.

Any eligibility determination issued in compliance with this decision will supersede prior inconsistent determinations issued by the Marketplace.

Effective Date of this Decision: June 3, 2014

How this Decision Affects Your Eligibility

You are not required to continue in Medicaid under the continuous coverage provision.

If it has not already done so, the Marketplace will redetermine your eligibility based on corrected income information from you.

If you have not already enrolled or reenrolled in a health plan, you have 60 calendar days from the date of this decision to do so.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the 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:

- Make 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 the Decision (45 CFR § 155.520[c]).

AND/OR

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

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 eligibility redeterminations made between June 3, 2014 and June 23, 2014 are RESCINDED insofar as they continued Medicaid coverage for you and your spouse.

You are not required to continue in Medicaid under the continuous coverage provision.

If it has not already done so, the Marketplace will redetermine your eligibility based on corrected income information from you.

If you have not already enrolled or reenrolled in a health plan, you have 60 calendar days from the date of this decision to do so.

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]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]