



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

Notice of Decision

Decision Date: September 11, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000715

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 10, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 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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Issue

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

Did the Marketplace properly determine that that you and your spouse have been eligible for Medicaid since May 3, 2014?

Procedural History

The Marketplace first received your and your spouse’s application for health insurance on March 11, 2014.

On March 12, 2014, a determination was issued that stated you and your spouse were eligible to enroll in a qualified health plan (QHP) without a subsidy through the Marketplace. This was based on your household income of \$77,000.00 and a household size of two people.

On May 2, 2014, information in your Marketplace application changed. Your household size was increased to six people, and your household income was decreased to \$34,007.96.

On May 3, 2014, a determination notice was issued that stated that, based on the updated information the Marketplace had received, you and your spouse were eligible for Medicaid.

On May 8, 2014, another determination notice was issued which agreed with the May 3, 2014 notice.

On June 15, 2014, your application was changed to a Non-Financial Application type and the children were removed from your application.

On June 16, 2014, a redetermination notice was issued that stated you and your spouse continue to be eligible to enroll in a QHP without a subsidy through the Marketplace.

On June 16, 2014, your application was changed back to a Financial Application and the household income amount was changed, first to \$78,500.00 and then to \$95,500.00. Your four children were also returned to the account.

On June 16, 2014, you spoke to the Marketplace's Customer Service Unit and appealed the May 3, 2014 and subsequent eligibility determinations on behalf of yourself and your spouse.

On June 17, 2014, a redetermination notice was issued based on the changes you made on June 16, 2014. The notice stated you and your spouse were no longer eligible for Medicaid. However, your Medicaid coverage would continue until July 31, 2015 and your spouse's until April 30, 2015 because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible.

On July 10, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and evidence was uploaded to your Marketplace account during the hearing. The record was closed at the end of the hearing.

Findings of Fact

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

- 1) You created your Marketplace account on March 11, 2014. You completed the application without any assistance from the Marketplace Customer Service Unit or a Navigator.
- 2) There are six people in your household. Your household includes you, your spouse, and your four children.
- 3) At this time, you and your spouse are the only people in your household seeking insurance through the Marketplace.
- 4) You testified that you plan on filing your 2014 taxes with a tax filing status of Married Filing Jointly.

- 5) You testified that you claim all four of your children as dependents on your tax return.
- 6) You testified that your household income fluctuates from month to month because your spouse is self-employed and some months he makes more money than others.
- 7) You testified that on May 2, 2014, you went into your application because you were seeking a way to lower your premium amount. The application asked you and your spouse what your income was for the month of May. The Marketplace then took that number and calculated your income for the year to be \$3,456.00 and your spouse's income for the year to be \$40,551.96.
- 8) You testified that also on May 2, 2014, you entered in the deductions you expected to take for the year that you had incurred for that month. However, the numbers you entered at the time were mistakenly entered for the entire year and not for just the month of May. The Marketplace calculated your deduction total as \$10,000.00.
- 9) You testified that the annual household income of \$34,007.96 that was calculated on May 2, 2014, was incorrect.
- 10) You testified that you and your spouse were enrolled in the Bronze Select plan as of March 11, 2014.
- 11) You testified that you were not aware that you and your spouse were removed from your Bronze Select plan and enrolled in Medicaid until the insurance ID cards arrived in the mail sometime at the end of May.
- 12) You testified that on June 15, 2014, after you received the Medicaid ID cards, you switched your application to a Non-Financial Application and reenrolled in the Bronze Select plan.
- 13) You are current on all of your Bronze Select plan premium payments.
- 14) You testified that on June 16, 2014, you went back into your application and switched it back to a Financial Application and attempted to change your income to different amounts in hopes of removing you and your spouse from Medicaid. Those amounts were not your household's actual expected gross income.
- 15) You testified that when you realized you could not remove yourself from Medicaid, you called the Marketplace to appeal the determination. This was the first time you had spoken to someone from the Marketplace for assistance with your application.

16) You testified that your and your spouse's adjusted gross income from 2013 is \$73,497.00. If your spouse receives the same amount of work at his business as he did for 2013, your 2014 adjusted gross income will also be \$73,497.00.

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

Applicable Law and Regulations

Medicaid is provided through the Marketplace to adults who meet all of the following criteria: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have household income that is at or below 138% of the federal poverty level, including the 5% disregard for household income where applicable (42 CFR § 435.119(b); 42 CFR § 435.603(d)).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

The 2014 federal poverty level (FPL) for Medicaid for a six-person household is \$31,970.

Legal Analysis

Currently at issue is the question of whether the Marketplace correctly found you and your spouse eligible for Medicaid as of May 3, 2014.

Your original financial application for health insurance, dated March 11, 2014, listed an income of \$77,000.00. This amount remained unchanged for almost two months.

You testified credibly that on May 2, 2014, you returned to your online application and mistakenly entered in income information for the month of May only, and did not take into account expected income for the rest of 2014, which resulted in the system generating a Medicaid eligibility determination.

You believed that you were never actually enrolled in Medicaid because of the Bronze Select plan coverage you had obtained in March. Only when you and your spouse received your Medicaid ID cards did you realize you were enrolled.

On June 15, 2014, shortly after realizing your Medicaid enrollment, you attempted to remedy the situation by switching your application to Non-Financial and reenrolling in the Bronze Select Plan.

You further tried to remedy the situation on June 16, 2014 when you switched your application back to Financial Assistance and entered in an increased income amount. However, because you were already found eligible for Medicaid you would remain eligible for Medicaid for twelve months regardless of what your actual annual income was.

You credibly testified at the hearing that your expected annual household income for 2014 is \$73,497.00, and you provided evidence of your 2013 income tax return in support of this testimony.

To be eligible for Medicaid on May 3, 2014, you and your spouse would have had to meet all of the criteria listed above, including having a household income no higher than 138% of the FPL. On the date you updated your Marketplace application, your household could have a MAGI income no greater than \$44,119 (138% of \$31,970, the 2014 FPL for a six-person household).

Your actual annual household income of \$73,497.00 is well in excess of that amount. Therefore, you and your spouse were not and are not eligible for Medicaid, and the continuous coverage policy does not apply.

Since you and your spouse were not eligible for Medicaid during the period at issue, your eligibility should be redetermined using a 2014 income that is consistent with your actual anticipated earnings. Additionally, the Marketplace should disenroll you and your spouse from any Medicaid programs in which you

were enrolled as a result of the Marketplace's eligibility determination.

Decision

The eligibility determination notice dated May 3, 2014, and the subsequent notices issued on May 8, 2014 and June 17, 2014, are RESCINDED.

Your case is returned to the Marketplace for a redetermination of your and spouse's eligibility for financial assistance and eligibility to enroll in a Qualified Health Plan (QHP). Your and your spouse's eligibility should be redetermined for a six-person household with an expected household income of \$73,497.00.

The Marketplace is directed to disenroll you and your spouse from the Medicaid program in which you are enrolled.

Effective Date of this Decision: September 11, 2014

How this Decision Affects Your Eligibility

The May 3, 2014 eligibility determination, which found you and your spouse eligible for Medicaid no longer has any effect.

The May 8, 2014 and June 17, 2014 eligibility determinations, which found you and your spouse eligible for Medicaid continuous coverage, no longer have any effect.

The Marketplace will disenroll you and your spouse from Medicaid and redetermine your eligibility. Eligibility will be determined for a six-person household with an expected household income of \$73,497.00.

Please note that this Decision from the Appeals Unit does not determine what your final eligibility will be. The Marketplace will issue a notice to let you know whether you or anyone in your household is eligible for financial assistance for health insurance.

If the notice of eligibility determination indicates that you or anyone in your household is eligible to sign up for a qualified health plan, you can do so through the Marketplace online portal.

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:

- 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 May 3, 2013 eligibility determination, which found you and your spouse eligible for Medicaid is RESCINDED and no longer has any effect.

The May 8, 2014 and June 17, 2014 eligibility determinations, which found you and your spouse eligible for Medicaid continuous coverage are RESCINDED and no longer have any effect.

The Marketplace will disenroll you and your spouse from Medicaid and redetermine your eligibility.

Eligibility will be determined for a six-person household with an expected household income of \$73,497.00.

Please note that this Decision from the Appeals Unit does not determine what your final eligibility will be. The Marketplace will issue a notice to let you know whether you or anyone in your household is eligible for financial assistance for health insurance.

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]