



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

Notice of Decision

Decision Date: November 24, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000795

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 10, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 31, 2014 denial of Medicaid premium assistance.

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 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]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that the Medicaid program should not provide premium assistance for your health insurance continued under COBRA?

Procedural History

The Marketplace received your original application on May 20, 2014, and several updated applications during July, the last on July 14, 2014.

On July 15, 2014, the Marketplace issued a notice advising you that your eligibility had been redetermined on July 14, 2014 on a household income of \$16,036.00. It stated that you were conditionally eligible for Medicaid and requested proof of income before August 1, 2014, as well as additional information on your third party health insurance.

On July 18, 2014, the Marketplace issued an eligibility redetermination that you were eligible for Medicaid and that you could not be enrolled in Medicaid Managed Care because you had comprehensive third party health insurance. The notice further stated: "The Medicaid program may be able to pay your health insurance premiums if it is determined to be cost effective."

On July 31, 2014, the Marketplace issued a notice that stated: "We have determined it is not cost effective for the Medicaid program to pay for [your] health insurance premiums ... If you are currently enrolled in this health insurance plan, you remain responsible for payment of your health insurance

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premium bills. If there are any changes to your insurance such as carrier, premium or you lose your insurance you must report these changes to the New York State of Health exchange immediately.”

On August 6, 2014, you spoke with the Marketplace’s Customer Service and appealed the denial of assistance with COBRA premiums.

On September 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 held open for up to 15 days to allow you the opportunity to provide supporting documents. The record was to be closed on September 25, 2014, or upon receipt of your evidence, whichever occurred earlier.

On September 10, 2014, the Marketplace’s Appeals Unit received a 4 page fax from you. It consisted of (1) a cover page and (2) a copy of your August 6, 2014 letter to the Marketplace objecting to the Marketplace’s denial of premium assistance. Your fax was marked collectively as “Appellant’s Exhibit D” and made part of the record. The record was closed that same day.

Findings of Fact

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

- 1) You are single and live in Rockland County, New York.
- 2) You separated from employment on July 6, 2014, and began receiving unemployment benefits on July 23, 2014, from [REDACTED] because that is where you were employed. You receive \$636.00 weekly (Appellant’s Exhibit C).
- 3) You have health insurance coverage under your former employer’s group plan with Oxford Health Plan. You have been personally responsible for paying \$682.89 in monthly premiums for coverage since July 1, 2014 (Appellant’s Exhibits A and B).
- 4) On or about July 15, 2014, you requested that the Marketplace consider whether you can qualify for a premium assistance program.
- 5) On July 18, 2014, the Marketplace issued an eligibility redetermination that you were eligible for Medicaid.
- 6) On July 30, 2014, the Department of Health’s Third Party Resource Unit used the programmed HIPP calculator in eMedNY, New York State’s electronic Medicaid system, to determine the average cost to Medicaid, if Medicaid were paying a managed care plan to provide twelve months of

coverage beginning on July 30, 2014, would be \$6,889.44. It further determined that the cost of your COBRA premiums for that same period would be \$8,194.68.

- 7) On August 6, 2014, you wrote to the Marketplace objecting to its determination that it was not cost effective to provide premium assistance for your COBRA premium payments (Appellant's Exhibit D). You also appealed this determination the same day.

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

Applicable Law and Regulations

The state or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (Social Security Act § 1902(a)(25); 42 USC. § 1396(a)). Third parties include health insurers, self-insured plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (*id.*).

In New York, payment of the premiums for COBRA continuation coverage is made by the Medicaid program for services of health care providers (18 NYCRR § 360-7.5(h)(1)(i), (a)(2)). The Medicaid assistance program will pay premiums for COBRA continuation coverage if it is determined that the savings in Medicaid expenditures are likely to exceed the amount of premium payments for COBRA (18 NYCRR §360-7.5(h)(2)).

The cost-benefit analysis for COBRA premiums that is to be relied upon by NY State of Health is performed by the Department of Health's Third Party Resource Unit (13 ADM 03 [Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010], Section III, Subsection I). The unit performs this analysis using a programmed calculator known as HIPP calculator (GIS 13 MA/012 (May 1, 2013)). The determinations of cost effectiveness are subject to appeal (13 ADM 03, Section III, Subsection J).

Legal Analysis

The matter at issue is whether the Medicaid program should provide premium assistance for the health insurance that you are continuing under COBRA.

You are Medicaid eligible and you have continued your Oxford Health Plan (third party health plan) coverage through COBRA.

On July 18, 2014, the Marketplace advised you that the Medicaid program might be able to pay your health insurance premiums if it is determined to be cost effective for Medicaid to do so.

You provided documentation to the Marketplace showing that your monthly premium costs \$682.89, which works out to a cost of \$8,194.68 for twelve months. According to the HIPP calculator, it would cost Medicaid an average of \$6,889.44 to provide coverage for that same period. Since paying the premiums for your third party health plan would cost Medicaid \$1,305.24 more than providing your coverage directly, it is not cost-effective for Medicaid to pay COBRA premiums for your Oxford Health Plan coverage.

Since it would not be cost effective for Medicaid to pay your COBRA premiums, your request to Medicaid to pay those premiums was properly denied.

Decision

The Marketplace's denial of Medicaid premium assistance remains in effect.

You remain eligible for Medicaid as of July 1, 2014.

Effective Date of this Decision: November 24, 2014

How this Decision Affects Your Eligibility

The Marketplace's denial of Medicaid premium assistance remains in effect.

You remain eligible for Medicaid as of July 1, 2014.

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)).

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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 Marketplace's denial of Medicaid premium assistance remains in effect.

You remain eligible for Medicaid as of July 1, 2014.

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]