



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

### Notice of Decision

Decision Date: April 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001192

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On January 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s failure to provide a timely eligibility determination.

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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## Decision

Decision Date: April 22, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001192

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace make a timely eligibility determination on your September 26, 2014 application for Medicaid?

## Procedural History

You initially applied for health insurance through the Marketplace for yourself and your spouse on September 26, 2014.

The Marketplace attempted to make determinations on your application on September 26 and 29, October 16, and November 14 and 24, 2014, but on each occasion found that additional information was needed for your application.

On September 29, 2014; October 14, 2014; and November 14, 2014, the Marketplace received uploaded documents, including a copy of your BlueCross BlueShield insurance card, a copy of your Unemployment Insurance Monetary Benefit Determination, and your spouse's paystubs.

On December 12, 2014, the Marketplace received your written appeal request regarding the Marketplace's failure to provide a timely eligibility determination regarding your September 26, 2014 application for health insurance.

On December 16, 2014, the Marketplace issued a notice of eligibility determination on your November 24, 2014 application. It stated that you, your spouse, and your son were eligible for Medicaid effective September 1, 2014.

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On January 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At the hearing, you indicated that you were satisfied with the December 16, 2014 Medicaid determination.

During the hearing, you raised a new issue, reimbursement for the COBRA premiums that you paid for coverage during September, October, November and December 2014. The record was developed during the hearing and left open for up to 15 days to give you an opportunity to submit supporting documentation, including a copy of the invoices for COBRA premiums you paid. On January 29, 2015, the Marketplace's Appeals Unit received your supporting documentation of the [REDACTED] invoice for premiums paid. It was marked as Appellant's Exhibit 1 and incorporated into the record. On February 3, 2015, the Marketplace also received a copy of the letter issued by [REDACTED], which included a check for \$1,140.45, reimbursing you for your December 2014 COBRA premium payment. It was marked as Appellant's Exhibit 2 and incorporated into the record. The record was then closed on February 3, 2015.

## **Findings of Fact**

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

- 1) You currently reside in a household that includes yourself, your spouse, your son, and your daughter.
- 2) You expect to file jointly with your spouse and claim only your son as a dependent for the 2015 tax year.
- 3) You testified that you were satisfied with your Medicaid eligibility determination effective September 1, 2014. However, you testified that you would like your COBRA premiums reimbursed.
- 4) You applied for health insurance for yourself and your son through New York State of Health on September 26, 2014. You modified your application on September 29, 2014 to add your son.
- 5) You, your spouse, and your son were determined eligible for Medicaid on December 16, 2014. The effective date of your Medicaid coverage was September 1, 2014.
- 6) You testified, and the record reflects, that you paid COBRA premiums during September, October, November, and December 2014 for COBRA coverage (Appellant's Exhibit 1, January 29, 2015).
- 7) The record reflects that [REDACTED] reimbursed your December 2014 COBRA premium on January 27, 2015.

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

## **Applicable Law and Regulations**

### Timely Medicaid Notice

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### COBRA Continuation Coverage

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,

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2013)). The determinations of cost effectiveness are subject to appeal (13 ADM 03, Section III, Subsection J).

## **Legal Analysis**

You applied for health insurance through New York State of Health on September 26, 2014 for yourself and your spouse and then modified your application to include your son on September 29, 2014.

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

The Marketplace attempted to make eligibility determinations regarding your application on September 26, 2014, September 29, 2014, and October 16, 2014, but each occasion found that more information was needed to make a decision. Since the Marketplace needed more information from you to make an eligibility determination, your application was not considered complete as of October 16, 2014.

However, on September 29, 2014; October 14, 2014; and November 14, 2014, the Marketplace received your uploaded documentation, which included a copy of your BlueCross Blue Shield insurance card, a copy of your Unemployment Insurance Monetary Benefit determination, and a copy of your spouse's paystubs. Since the Marketplace received the necessary information to make an eligibility determination in your case as of November 14, 2014, your application was considered complete on that date.

The Marketplace issued an eligibility determination notice on December 16, 2014 that stated you, your spouse and your son were eligible for Medicaid effective September 1, 2014. Since the Marketplace issued an eligibility determination 32 days from the date your application was considered complete, the December 16, 2014 eligibility determination was timely.

At the hearing, you testified that although you are satisfied with your current eligibility determination, you are seeking Medicaid reimbursement for COBRA premiums paid from September 1, 2014 to December 31, 2014. Since you were determined Medicaid eligible effective September 1, 2014, you meet the threshold requirement for COBRA premium reimbursement for the months of September, October and November 2014. You are not eligible to be reimbursed for COBRA premiums paid during December 2014 because you have already been reimbursed for that premium payment by your Employee Benefits Group Insurance Department.

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Your case is being referred to the Third Party Resource Unit, which will determine whether the savings in Medicaid expenditures exceed the amount of your premium payments for COBRA.

## **Decision**

The Marketplace's December 16, 2014 eligibility determination was issued timely.

**Effective Date of this Decision:** April 22, 2015

## **How this Decision Affects Your Eligibility**

This decision does not change your eligibility. You, your spouse, and your son remain eligible for Medicaid.

Since your Medicaid coverage took effect September 1, 2014, you meet the threshold requirement to be considered for reimbursement of your COBRA premiums for September, October, and November 2014 (your December 2014 premium was reimbursed by your Employee Benefits Group Insurance Department).

The Third Party Resource Unit will determine whether reimbursement of your COBRA premiums is cost effective and can be authorized.

## **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 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))

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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 December 16, 2014 eligibility determination was issued timely.

This decision does not change your eligibility. You, your spouse, and your son remain eligible for Medicaid.

Since your Medicaid coverage took effect September 1, 2014, you meet the threshold requirement to be considered for reimbursement of your COBRA premiums for September, October, and November 2014 (your December 2014 premium was reimbursed by your Employee Benefits Group Insurance Department).

The Third Party Resource Unit will determine whether reimbursement of your COBRA premiums is cost effective and can be authorized.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]