



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

Notice of Decision

Decision Date: April 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001245

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 23, 2014 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).

THIS PAGE INTENTIONALLY LEFT BLANK



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

Decision

Decision Date: April 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001245

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Was the December 18, 2014 appeal timely?

If the appeal can be addressed, did the Marketplace properly find that, as of May 22, 2014, you were eligible for up to \$534.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid?

Procedural History

You initially applied for health insurance through the Marketplace on March 7, 2014. That application indicated existing coverage for yourself, your spouse, and both of your children through COBRA.

On March 8, 2014, the Marketplace issued two notices. The first confirmed that you had chosen to receive all information from New York State of Health electronically. The second, responding to your March 7, 2014 application, stated that additional income information was needed to make an eligibility determination.

Your application was resubmitted on April 2, 2014. It requested coverage for yourself, your spouse, and your two children and again confirmed existing coverage through COBRA. In it, you attested to an expected income of \$-1,900.00 (\$8,100.00 in unemployment benefits less \$10,000.00 in deductions) for

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).

yourself; \$0.00 expected income for your spouse and dependent son, and \$44,483.50 earned income for your dependent daughter.

On April 8, 2014, the Marketplace received uploaded documents, which included a copy of your Unemployment Insurance Benefit Payment History for payments received between July 2, 2013 and December 31, 2013. On April 10, 2014, the Marketplace received a version that listed the 2013 payments, showed no payments between January 1, 2014 and February 24, 2014, and showed that a \$405.00 payment was released on February 25, 2014.

The Marketplace issued four notices on April 30, 2014. Two were reissues of the March 8, 2014 notices. Two responded to your April 2, 2014 application. One stated that additional income information was needed to make an eligibility determination. The other, a notice of eligibility determination, stated that you, your spouse, and your two children were conditionally eligible for Medicaid and directed you to “confirm your TPL Information” before April 29, 2014.

On May 19, 2014, the Marketplace received another upload of your Unemployment Benefit Payment History showing only the payments that you had received during 2013.

On May 20, 2014, the Marketplace issued a notice stating that more income information was needed to make a determination.

Your application was resubmitted on May 22, 2014. Attested household incomes were \$-1,900.00 for you, \$44,853.50 for your daughter, and \$0.00 for your spouse and son.

On May 23, 2014, the Marketplace issued an eligibility determination notice stating that, with a household income of \$42,943.50, you and your spouse were eligible for up to \$534.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid. The notice advised you that you had “60 days from the date on your eligibility notice to ask for an appeal.”

No appeal request was received by the Marketplace on or before July 22, 2014.

Your application was resubmitted on July 28, 2014 for yourself, with a marital status of divorced, and your son. Your daughter was listed as a household member who did not need insurance. On July 30, 2014, the application was modified to request insurance for your daughter as well. Attested household incomes were \$-1,900.00 for you, \$44,853.50 for your daughter, and \$0.00 for your son.

A July 31, 2014 notice of eligibility determination on the July 30, 2014 application stated that you, your daughter, and your son were eligible to share up to \$371.00

per month and eligible for cost-sharing reductions. You were directed to provide additional information on income.

You enrolled in a MetroPlus Platinum-P2 plan on July 31, 2014 and, on August 8, 2014, you contacted Marketplace customer service to ask that coverage begin on August 1, 2014 rather than on September 1, 2014.

On December 18, 2014, you spoke with the Marketplace's Account Review Unit and requested an appeal of your May 23, 2014 application insofar as it discontinued Medicaid coverage.

On January 23, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At the hearing, you authorized the Marketplace's Appeals Unit to contact the Marketplace's Account Review Unit and Customer Service Unit to obtain information regarding your previous complaints and incorporate it into the record. The record was developed and left open for 15 business days to provide you an opportunity to submit supporting income documentation.

The Marketplace's Appeals Unit received your evidence on February 7, 2015, which included a statement that your daughter is currently unemployed, and a copy of your 2014 Form 1099-G. The evidence was collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on February 13, 2015.

Also incorporated into the record is a copy of the Incident Complaint page from your account, identified by complaint tracking # [REDACTED] from August 2, 2014 at 10:06 am, memorializing your call to the Customer Service Unit which has been marked as Exhibit 2.

Findings of Fact

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

- 1) On April 2, 2014, you submitted an application requesting coverage for yourself, your spouse and your two children. It indicated that all four family members had existing coverage under COBRA.
- 2) On April 30, 2014, the Marketplace issued a notice of eligibility determination on your April 2, 2014 application. It stated that you, your spouse, and your two children were conditionally eligible for Medicaid and directed you to "confirm your TPL Information before April 29, 2014."

- 3) According to your May 19, 2014 application, your household included yourself, your spouse, son and daughter. That application also indicated that all four individuals were seeking insurance through the Marketplace. The May 19, 2014 application was determined based on a household income of \$7,200.00, which was the sum of your Unemployment Insurance Benefit income (\$8,100.00), \$10,000.00 in "Certain business expenses" deductions, and your daughter's earned income of \$9,100.00. This application further indicated that you had health insurance coverage through COBRA for yourself, your spouse, son and daughter effective January 1, 2013 to May 31, 2014.
- 4) You testified that you separated from your previous employment around January 2013. You further testified that you had purchased COBRA coverage until May 2014. According to your May 19, 2014 application, your COBRA coverage for yourself and your daughter ended on May 31, 2014.
- 5) The record reflects that before your COBRA coverage expired, your daughter began a new job with an expected income of \$44,843.50.
- 6) The record reflects that you modified your application on May 22, 2014. According to that modified application, your household included yourself, your spouse, son and daughter, all seeking insurance through the Marketplace. The May 22, 2014 application was determined based on a household income of \$42,943.50, which was the sum of your Unemployment Insurance Benefit income (\$8,100.00), \$10,000.00 in deductions for "Certain business expenses," and your daughter's earned income of \$44,843.50.
- 7) You testified that you were approved for Medicaid in March 2014, but you were terminated from that coverage in June 2014. You further testified that you were advised by a representative at New York State of Health that you should have not been terminated from your Medicaid coverage in June 2014.
- 8) According to the notes included in the Incident Complaint page from your account, you spoke with the Customer Service Unit at approximately 10:06 am on August 2, 2014. This note indicates that you were calling regarding the eligibility start date of your insurance coverage with Metro Plus, specifically requesting that your coverage be backdated to August 1, 2014. The notes do not suggest that you objected to losing Medicaid coverage (Exhibit 2).

- 9) You testified that you are appealing the Marketplace's determination to terminate Medicaid coverage for you and your daughter effective June 30, 2014, instead of remaining Medicaid eligible under continuous coverage.

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

Applicable Law and Regulations

Appeal Timeliness

An applicant has the right to appeal (1) an eligibility determination, (2) an eligibility determination for an exemption, (3) a failure by the Exchange to provide timely notice of an eligibility determination and (4) a denial of a request to vacate dismissal made by a State Exchange appeals entity (45 CFR § 155.505).

The Marketplace "appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) A timeframe consistent with the state Medicaid agency's requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination" (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

Medicaid

A "person whose eligibility for medical assistance is based on the modified adjusted gross income of the person or the person's household, and who loses eligibility for such assistance for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number, before the end of a twelve month period beginning on the effective date of the person's initial eligibility for such assistance, or before the end of a twelve month period beginning on the date of any subsequent determination of eligibility based on modified adjusted gross income, shall have his or her eligibility for such assistance continued until the end of such twelve month period, provided that federal financial participation in the costs of such assistance is available" (NY Soc Serv L 366(4)(c)).

Legal Analysis

Here, the threshold issue is whether your December 18, 2014 appeal request is timely.

A notice of eligibility determination dated May 23, 2014, stated that, with a household income of \$42,943.50, you and your spouse were eligible for up to \$534.00 per month in advance premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid. The notice advised you that you had “60 days from the date on your eligibility notice to ask for an appeal.”

The sixty-day period to submit a timely review request ended on July 22, 2014, and no appeal request was filed during that period.

You did speak with Customer Service on August 2, 2014, after the period for a timely appeal request had ended, but this was to request an earlier start date for your qualified health plan. The notes do not suggest that you objected to losing Medicaid coverage.

According to the Customer Service notes for the August 2, 2014 conversation, you were told that your Medicaid coverage should not have ended. However, you did not appeal loss of Medicaid coverage until December 18, 2014, five months after the Marketplace issued its eligibility determination and four months after you spoke with Customer Service.

Since the December 18, 2014 appeal request was untimely, the Appeals Unit declines to address it. The appeal is dismissed.

Nevertheless, it is additionally noted that the information provided during the August 2, 2014 conversation was incorrect. The Social Services Law does provide 12 months continuous of Medicaid coverage for adults under many circumstances. However, the April 30, 2014, notice of eligibility determination on your April 2, 2014 application stated only that you and your children were conditionally eligible for Medicaid and directed you to provide additional information. In these circumstances, the continuous coverage provision does not apply.

Decision

The December 18, 2014 appeal of the May 23, 2014 eligibility determination is untimely and is dismissed.

Effective Date of this Decision: April 14, 2015

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).

How this Decision Affects Your Eligibility

This decision does not change the eligibility.

This decision has no effect on any eligibility determination made after May 23, 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.

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))

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

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).

Summary

The December 18, 2014 appeal of the May 23, 2014 eligibility determination is untimely and is dismissed.

This decision does not change your eligibility.

This decision has no effect on any eligibility determination made after May 23, 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]
[REDACTED]
[REDACTED]