



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

Notice of Decision

Decision Date: May 29, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001323

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 5, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 23, 2013 preliminary determination and January 1, 2015 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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Issues

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

Was your January 2, 2015 appeal timely with regard to the December 23, 2013 preliminary determination?

Did the Marketplace properly find that you were ineligible for Medicaid in the December 23, 2013 preliminary determination?

Are you eligible for reimbursement of the health insurance premium that you paid for coverage during 2014?

Procedural History

On December 23, 2013, the Marketplace received your application for health insurance and made a preliminary determination that you were eligible for an advance premium tax credit of up to \$204.00 per month and for cost-sharing reductions, effective January 1, 2014. This determination was based, in part, on an attested annual household income of \$22,637.28.

The Marketplace did not issue a notice of eligibility determination on your December 23, 2013 application.

According to your Marketplace account, on December 23, 2013, you enrolled in a qualified health plan in the Marketplace. Your coverage began on January 1, 2014.

On November 6, 2014, the Marketplace issued a notice stating that it was time to renew your coverage through the Marketplace. It also stated that, according to information from state and federal data sources, you were eligible for Medicaid.

On December 31, 2014, the Marketplace received a revised application.

On January 1, 2015, the Marketplace issued a notice of eligibility redetermination based on your December 31, 2014 application. It found you eligible for Medicaid, effective December 1, 2014.

On January 2, 2015, you spoke with the Marketplace's Account Review Unit to appeal the December 23, 2013 preliminary determination insofar as you were found ineligible for Medicaid and to request reimbursement of the health insurance premiums you paid during 2014.

On February 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse also attended the hearing as your Authorized Representative. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit the following additional evidence: (1) Social Security Administration (SSA) benefit award letters issued to your spouse for 2014 and 2015, (2) reasonably acceptable evidence reflecting your spouse's receipt of workers compensation benefits during December 2014, (3) SSA benefit award letter issued to you, and (4) documentation from confirming your premium payment and premium tax credit received for the month of December 2014.

Immediately after the hearing concluded, you faxed the documents to the Appeals Unit. The record was closed on February 5, 2015.

Findings of Fact

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

- 1) You testified that you wanted your spouse to act as your Authorized Representative during the hearing.
- 2) On December 23, 2013, you submitted an application for health insurance and attested to a household income of \$22,637.28.
- 3) On December 23, 2013, the Marketplace made a preliminary determination that you were eligible for an advance premium tax credit of up to \$204.00 per month and eligible for cost-sharing reductions effective January 1, 2014.

- 4) You enrolled in a 2014 qualified health plan through the Marketplace. You were enrolled in that plan from January 1, 2014 to December 31, 2014.
- 5) You submitted an updated application to the Marketplace on December 31, 2014. Using the information in this application, the Marketplace determined that you were eligible for Medicaid, effective December 1, 2014.
- 6) You spouse testified that you were not aware that you were eligible for Medicaid beginning December 1, 2014, and paid your premium amount of \$221.88 for December 2014.

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

Applicable Law and Regulations

Timely Determinations

The Marketplace must provide timely written notice to an applicant of any eligibility determination made in accordance with this subpart (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Appeal Requests

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.

Qualified Health Plan (QHP) Termination

“If the enrollee is newly eligible for Medicaid..., the last day of enrollment in a QHP through the Exchange is the day before the individual is determined eligible for Medicaid” (45 CFR § 155.430(d)(2)(iv)).

Legal Analysis

Since your appeal was filed more than a year after the determination was made, there is a threshold issue to be addressed: Was your January 2, 2015 appeal timely with regard to the December 23, 2013 determination?

A notice of eligibility determination must be appealed within 60 days of issue. In this case, the Marketplace made a preliminary determination on your December 23, 2013 application, and that determination was implemented. However, the record does not contain a written notice of the determination. Since the record does not contain a notice with a date of issue, the 60-day appeal period cannot be determined; the Marketplace is deemed to have waived any objection to the appeal on grounds of timeliness, and the appeal is timely.

The first issue raised on appeal is whether the December 23, 2013 preliminary determination should have found you eligible for Medicaid rather than for enrollment in a qualified health plan (QHP) with an advance premium tax credit (APTC) and cost-sharing reductions (CSR).

In your December 23, 2013 application, you listed household income of \$22,637.28. This income was attributable to your spouse, of which \$12,288.00 was from Social Security benefits and \$10,349.28 was from "additional income." There is nothing in the application to show that the additional income was not taxable income or should not have been included as income by the Marketplace.

Therefore, the household income of \$22,637.28 was properly used to determine your eligibility.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size. On the date of your December 23, 2013 application, the relevant FPL was \$15,510.00 for a two-person household. Since \$22,637.28 is 145.95% of the 2013 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 23, 2013 preliminary eligibility determination properly stated that, based on the information you provided, you were not eligible for Medicaid, it was correct and is **AFFIRMED**.

The second issue raised on appeal is whether you owe your part of the premium or if you are entitled to reimbursement for the health insurance premiums you paid during 2014.

“If the enrollee is newly eligible for Medicaid..., the last day of enrollment in a QHP through the Exchange is the day before the individual is determined eligible for Medicaid”

On December 31, 2014, you submitted a revised application, and the Marketplace determined that you were newly eligible for Medicaid. When a person who is enrolled in a QHP in the Marketplace becomes newly eligible for Medicaid, the QHP continues to provide coverage until the day before the Medicaid determination was made. Here, your QHP was effective through, and including, December 30, 2014.

Under some circumstances, Medicaid can reimburse the cost of health insurance premiums, but reimbursement is available only to people who are eligible for Medicaid. You were not eligible for Medicaid during 2014, and the federal regulation that governs the transition of a newly eligible person from a QHP to Medicaid does not provide full or partial reimbursement of premiums for any period during which coverage under the two systems may have coincided. The fact that New York State can provide retroactive coverage to Medicaid recipients does not change that outcome.

Therefore, you are not eligible to be reimbursed for your portion of the health insurance premium that you paid for December 2014.

Decision

You were not eligible for Medicaid when the Marketplace made the December 23, 2013 preliminary determination. That determination is AFFIRMED.

You are not eligible to be reimbursed for your portion of the health insurance premium that you paid for December 2014.

Effective Date of this Decision: May 29, 2015

How this Decision Affects Your Eligibility

You continue to be eligible for Medicaid beginning December 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 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).

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

Summary

You were not eligible for Medicaid when the Marketplace made the December 23, 2013 preliminary determination. That determination is **AFFIRMED**.

You are not eligible to be reimbursed for your portion of the health insurance premium that you paid for December 2014.

You continue to be eligible for Medicaid beginning December 1, 2014.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]