Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: ██████████████
Appeal Identification Number: AP000000001357

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Dear ██████████,

On January 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 20, 2014 disenrollment notice.

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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nystateofhealth™
The Official Health Plan Marketplace

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

Decision

Decision Date: August 7, 2015

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Issue

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

> Did the Marketplace properly determine that, as of December 20, 2014, you were not eligible for Medicaid?

Procedural History

The Marketplace received your initial application for health insurance on December 19, 2014.

On December 20, 2014, the Marketplace issued an eligibility determination that you are not eligible to receive help to pay or enroll in health insurance through New York State of Health because, based on information from federal and state date sources, you are already enrolled in Medicare.

On, or about, January 6, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it denied your eligibility for Medicaid.

Also on January 6, 2015, the Marketplace received your modified application for health insurance.

On January 7, 2015, the Marketplace issued an eligibility redetermination notice that you remained ineligible to receive help to pay or enroll in health insurance through NY State of Health because, based on information from federal and state date sources, you are already enrolled in Medicare.

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On January 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your Authorized Representatives, ███████ ██████ and ████████████, were also sworn in and appeared on your behalf. The record was developed during the hearing and left open for up to 15 days to provide an opportunity to submit supporting documentation.

On February 6, 2015, the Marketplace's Appeals Unit received your supporting documentation, which included a copy of ████████████ Medicaid insurance card and proof of █████████ enrollment in ████████████████████. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was then closed on February 6, 2015.

Findings of Fact

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

1) You testified that you currently reside with ████████████ and ████████████.

2) You testified, and the record reflects, that you expect to file your 2015 tax return as Head of Household with a Qualifying Individual.

3) You testified, and the record reflects, that you expect to claim █████████ as a dependent for the 2015 tax year.

4) You testified, and the record reflects, that you have adopted █████████ ██████.

5) You testified, and the record reflects, that ████████is currently 18 years old.

6) You testified, and the record reflects that ████████████ is currently a full time student at ████████████████. (Appellant's Exhibit 1, February 6, 2015)

7) You testified, and the record reflects, that █████████ is currently covered under Medicaid with Fidelis Care effective September 1, 2012. (Appellant's Exhibit 1, February 6. 2015)

8) You testified that ████████████ is currently being deprived of parental support because her biological mother passed away and her father is unknown.

9) You testified that you are assuming primary responsibility for ███ care.

10) You testified, and the record reflects, that you are currently insured through Medicare.

11) You testified, and the record reflects, that you expect to have a household income of $15,589.92 for the 2015 tax year.

12) You testified, and the record reflects, that you reside in Monroe County, NY.

13) At the time of the December 19, 2014 application for health insurance, you were 79 years old.

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

Applicable Law and Regulations

<u>Medicaid, generally</u>

Medicaid can be provided through the Marketplace to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

<u>Medicaid: Parent/Caretaker Relatives</u>

Medicaid can be provided through the Marketplace to parents and other caretaker relatives, regardless of age or receipt of Medicare benefits, whose income is at or below 138% of the FPL of the applicable family size if the dependent child is enrolled in Medicaid, Child Health Plus, or other minimum essential coverage (42 CFR § 435.110(b)-(c); N.Y. Soc. Serv. Law § 366(b); NY Department of Health Administrative Directive 13ADM-03).

A caretaker relative is a relative of a dependent child by blood, adoption, or marriage, who:

- Lives with the dependent child;
- Assumes primary responsibility for the child's care; and

- Is either the child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece.

(42 CFR § 435.4; N.Y. Soc. Serv. Law § 366(1)(a)(2)(i); NY Department of Health Administrative Directive 13ADM-03)

A dependent child is a child who:

- Is under 18 years old, or is 18 years old and a full-time high school student; and
- Is deprived of parental support by at least parent due to either death, absence, physical or mental incapacity, or unemployment.

(42 CFR § 435.4; N.Y. Soc. Serv. Law § 366(b)(1)(v); NY Department of Health Administrative Directive 13ADM-03)

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2014 FPL, which is $15,730.00.00 for a two-person household (79 Fed. Reg. 3593, 3593).

Legal Analysis

The only issue is whether the Marketplace properly determined that you were not eligible for Medicaid through NY State of Health.

According to your December 19, 2014 application for health insurance, you were 79 years old. In that application, you listed ▮▮▮▮▮▮▮▮ as your ward.

Generally, Medicaid can be provided through the Marketplace to individuals who are between the ages of 19 and 64. Though Medicaid can be provided through the Marketplace to parents or caretaker relatives, regardless of age, other criteria, including familial relationships must be established.

Since you indicated that ▮▮▮▮ was your ward, and not your child, in the December 19, 2014 application, and because you were over the age of 64, the Marketplace properly determined that you were not eligible for Medicaid through NY State of Health.

The December 20, 2014 eligibility determination is, therefore, AFFIRMED.

However, in your modified application submitted on January 6, 2015, you indicated that ▮▮▮▮ was, in fact, your adopted daughter. At the January 29, 2015 hearing, you confirmed that you adopted ▮▮▮▮. You also provided

evidence that ████ is 18 years old, is currently enrolled full time in ████████ ████████, and is currently receiving Medicaid coverage through Fidelis. You also testified that ████ mother had passed away and her father is unknown. You further testified that ████ currently lives with you and you are assuming primary responsibility for her care.

Since you meet the criteria necessary to be a caretaker relative, and since ████ meets the criteria necessary to be considered a dependent child, the Marketplace improperly denied your eligibility for Medicaid based on your receipt of Medicare benefits.

Therefore, the January 7, 2015 eligibility determination is RESCINDED.

Your case should be RETURNED to the Marketplace to redetermine your eligibility for Medicaid as of January 2015 based on your status as a caretaker relative, ████ status as a dependent child who is 18 years old, a full-time student in high school, and is currently receiving Medicaid benefits, with an expected household income of $15,589.92 for a household of two for the 2015 tax year.

Decision

The December 20, 2014 eligibility determination is, therefore, AFFIRMED.

The January 7, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for health insurance as of January 2015 based on your status as a caretaker relative, ████ status as a dependent child who is 18 years old, a full-time student in high school, and is currently receiving Medicaid benefits, with an expected household income of $15,589.92 for a household of two for the 2015 tax year.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for health insurance as of January 2015 based on your status as a caretaker relative, ████ status as a dependent child who is 18 years old, a full-time student in high school, and is currently receiving Medicaid benefits, with

an expected household income of $15,589.92 for a household of two for the 2015 tax year.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice, which will contain further information.

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

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Summary

The December 20, 2014 eligibility determination is, therefore, AFFIRMED.

The January 7, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for health insurance as of January 2015 based on your status as a caretaker relative, ███████ status as a dependent child who is 18 years old, a full-time student in high school, and is currently receiving Medicaid benefits, with an expected household income of $15,589.92 for a household of two for the 2015 tax year.

This decision is not a final determination of your eligibility.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice, which will contain further information.

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:

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