



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

Notice of Decision

Decision Date: May 13, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001369

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 26, 2014 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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]
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Issue

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

Did the Marketplace properly find that you were eligible for an advance premium tax credit and ineligible for Medicaid effective January 1, 2015?

Procedural History

On November 7, 2013, the Marketplace received your initial application for health insurance.

The Marketplace then received your modified application for health insurance on December 23, 2013.

On February 18, 2014, the Marketplace issued an eligibility determination that you were eligible for Medicaid effective January 1, 2014 and enrollment in your Medicaid Managed Care plan would begin March 1, 2014.

On November 5, 2014, the Marketplace issued a notice to advise you to renew your health insurance coverage for 2015. That notice further stated that, according to information from federal and state data sources, you qualified for a tax credit of up to \$67.52 per month effective January 1, 2015. The notice stated that you were not eligible for Medicaid or cost-sharing reductions effective January 1, 2015.

On November 16, 2014, the Marketplace received your application for health insurance for 2015.

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Also on November 16, 2014, the Marketplace received the supporting income documentation uploaded to your Marketplace account, which included a copy of your Unemployment Insurance Official Record of Benefit Payment History.

On November 20, 2014, the Marketplace received a copy of your supporting income documentation via mail, which also included a written statement from you indicating that the income relied upon in the November 5, 2014 notice was inaccurate.

On November 27, 2014, the Marketplace issued a notice of eligibility redetermination stating that, effective January 1, 2015, you are eligible for an advance premium tax credit of up to \$319.00 per month but not eligible for Medicaid or cost-sharing reductions “because your household income of \$6,733.22 is over the allowable income limit of \$16,105.00.”

On December 4, 2014, the Marketplace received your written statement via mail. In it you indicated that you would like to remain covered by Medicaid and remain enrolled in your Medicaid Managed Care plan.

You updated your application on December 9, 2014 and, on December 10, 2014, the Marketplace issued a notice of eligibility redetermination stating that you were eligible for Medicaid effective December 1, 2014.

On December 26, 2014, the Marketplace issued a disenrollment notice, which indicated that your existing Medicaid eligibility and Medicare Managed Plan coverage would end December 31, 2014.

On December 28, 2014, the Marketplace issued a notice confirming your coverage through Medicaid effective December 1, 2014 and your enrollment in Medicaid Managed Care plan enrollment effective February 1, 2015.

On December 31, 2014, the Marketplace received your written request to appeal the December 26, 2014 determination insofar as it terminated your Medicaid eligibility and Medicare Managed Plan enrollment.

On February 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and left open for up to 15 days to give you an opportunity to submit supporting evidence.

On February 12, 2015, the Marketplace’s Appeals Unit received your supporting documentation that was uploaded to your Marketplace account. This evidence included four copies of the letter you sent to your Medicare Managed Health plan and copy of your insurance cards. The documents were collectively marked as Appellant’s Exhibit 2 and incorporated into the record. The record was closed on February 12, 2015.

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Findings of Fact

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

- 1) You are the only person in your tax household, and you expect to file your 2015 federal income tax return as Single.
- 2) You testified, and the record reflects, that your Medicaid eligibility began in the Marketplace effective January 1, 2014 and that coverage through your Medicaid Managed Care plan began on March 1, 2014.
- 3) You testified that you modified your account during November 2014 in response to a renewal notice from the Marketplace.
- 4) On November 27, 2014, the Marketplace issued notice of eligibility determination stating that, effective January 1, 2015, you are eligible for an advance premium tax credit of up to \$319.00 per month but ineligible for Medicaid because “the household income you provided to [the Marketplace] of \$6,733.22 is over the allowable income limit of \$16,105.00.”
- 5) In an application filed December 9, 2014, you attested to an expected household income of \$0.00.
- 6) The record reflects that, on December 9, 2014, the Marketplace verified that your unemployment insurance benefits were exhausted.

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

Applicable Law and Regulations

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

The 2015 annual open enrollment period began November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)).

Medicaid

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

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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 federal poverty level (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)).

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 applications for 2015 coverage, that was still the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” ((42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

Under New York’s Social Services Law, a person who is found eligible for Medicaid based on his household’s modified adjusted gross income (MAGI) but loses that eligibility “for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number” keeps their Medicaid for twelve months, “provided that federal financial participation in the costs of such assistance is available” (Soc. Serv. Law § 366(4)(c)). This provision is referred to as “continuous coverage” and the twelve-month period of continuous coverage is based on the date of Medicaid eligibility.

Legal Analysis

The first issue is whether the Marketplace properly terminated your Medicaid coverage effective November 30, 2014 and began a new Medicaid coverage year effective December 1, 2014.

According to the record, your Medicaid eligibility took effect on January 1, 2014 and enrollment in your Medicaid Managed Care plan began on March 1, 2014. Since you were entitled to 12 months of continuous coverage, your Medicaid eligibility, and with it your Medicaid Managed Care plan, should continue until December 31, 2014.

You received a renewal notice and returned to the Marketplace in November 2014, during the open enrollment period, to reapply for 2015.

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On November 27, 2014, the Marketplace issued a clearly erroneous eligibility redetermination notice stating that, effective January 1, 2015, you were not eligible for Medicaid because your household income of \$6,733.22 was over the allowable income limit of \$16,105.00.

According to the record, you are in one-person tax household and your federal income tax filing status is single. The November 27, 2014 notice should have stated that, effective January 1, 2015, you are eligible for Medicaid because your household income \$6,733.22 is under the income limit of \$16,105.00.

Therefore, the November 27, 2014 notice of eligibility determination is MODIFIED to state that, effective January 1, 2015, you are eligible for Medicaid but ineligible for an advance premium tax credit and cost-sharing reductions.

You updated your Marketplace application and, on December 10, 2014, the Marketplace issued a notice stating that you were eligible for Medicaid effective December 1, 2014.

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility.” Here, the Marketplace did not receive information suggesting that your circumstances had changed, you were already eligible for Medicaid during December 2014, and there was no need for your eligibility to be redetermined for that month.

Since the February 18, 2014 notice of eligibility determination confirms that you became eligible for Medicaid effective January 1, 2014, and since the November 27, 2014 notice of eligibility determination (as modified), confirms that that your Medicaid eligibility is renewed effective January 1, 2015, the December 10, 2014 notice of eligibility determination is moot and is here RESCINDED.

The credible evidence of record indicates that, during 2015, the open enrollment period, and prior to December 20, 2014, you updated your account and wrote to the Marketplace to confirm that you wanted Medicaid during 2015 and that you wanted the same Medicaid Managed Care plan during 2015. Since you have made every reasonable effort to assure your continuing eligibility and uninterrupted coverage, the December 28, 2014 notice is MODIFIED to state that both your 2015 Medicaid eligibility and your 2015 Medicaid Managed Care plan are effective January 1, 2015.

Decision

The November 27, 2014 notice of eligibility determination is MODIFIED to state that, effective January 1, 2015, you are eligible for Medicaid but ineligible for an advance premium tax credit and cost-sharing reductions.

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The December 10, 2014 eligibility redetermination is RESCINDED.

The December 28, 2014 notice is MODIFIED to state that both your 2015 Medicaid eligibility and your 2015 Medicaid Managed Care plan are effective January 1, 2015.

Effective Date of this Decision: May 13, 2015

How this Decision Affects Your Eligibility

Your 2014 Medicaid eligibility was effective from January 1, 2014 until December 31, 2014.

The 2014 coverage you had through your Medicaid Managed Care plan began on March 1, 2014 and ended on December 31, 2014.

Your 2015 Medicaid eligibility began on January 1, 2015.

The 2015 coverage you have through your Medicaid Managed Care plan began on January 1, 2015.

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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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Summary

The November 27, 2014 notice of eligibility determination is MODIFIED to state that, effective January 1, 2015, you are eligible for Medicaid but ineligible for an advance premium tax credit and cost-sharing reductions.

The December 10, 2014 eligibility redetermination is RESCINDED.

The December 28, 2014 notice is MODIFIED to state that both your 2015 Medicaid eligibility and your 2015 Medicaid Managed Care plan are effective January 1, 2015.

Your 2014 Medicaid eligibility was effective from January 1, 2014 until December 31, 2014.

The 2014 coverage you had through your Medicaid Managed Care plan began on March 1, 2014 and ended on December 31, 2014.

Your 2015 Medicaid eligibility began on January 1, 2015.

The 2015 coverage you have through your Medicaid Managed Care plan began on January 1, 2015.

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:

██████████
██████████
██████████