



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001394

[REDACTED]

Dear [REDACTED],

On February 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 28, 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).

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## Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001394



## Issues

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

Did the Marketplace properly determine that you were eligible to receive up to \$296.00 per month in advance premium tax credits and cost-sharing reductions effective December 1, 2014?

Did the Marketplace properly determine that the termination date of your Medicaid Managed Care plan was November 30, 2014?

## Procedural History

On December 19, 2013, the Marketplace received your application for health insurance. The Marketplace prepared a preliminary eligibility determination stating that you are eligible to receive Medicaid.

On February 19, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective January 1, 2014.

On April 19, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid and that you have chosen to enroll in WellCare of New York, Inc. effective April 1, 2014.

On November 3, 2014, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible for up to \$296.00 per month in advance premium tax credits and cost-sharing reductions.

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On November 4, 2014, the Marketplace issued a Disenrollment Notice stating that your insurance coverage, WellCare of New York, Inc., is terminated effective November 30, 2014.

On November 28, 2014, the Marketplace issued an eligibility determination notice. The notice states that based on your November 3, 2014, application, you are eligible for up to \$296.00 per month in advance premium tax credits and cost-sharing reductions, effective December 1, 2014. You were not eligible for Medicaid because your income was over the allowable limit for that program.

On December 26, 2014, you reapplied for health insurance through the Marketplace. On December 27, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective December 1, 2014.

On December 30, 2015, you uploaded an appeal request to your Marketplace Account. You are appealing: (1) The discontinuance of your Medicaid coverage as of December 1, 2014, and (2) The monthly amount of advance premium tax credits and cost-sharing reductions that you were determined eligible for.

On February 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that hearing and closed at the end of the hearing.

## **Findings of Fact**

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

1. You are applying for health insurance through the Marketplace for yourself only.
2. You plan on filing a 2015 federal income tax return with the tax status of single and will claim no dependents on that return.
3. On February 19, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective January 1, 2014.
4. On April 19, 2014, the Marketplace issued an eligibility determination notice stating that you have chosen to enroll in WellCare of New York, Inc. and would be effective April 1, 2014.
5. On November 3, 2014, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible for up to \$296.00 monthly of advance premium tax credits and cost-sharing reductions.

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6. On November 4, 2014, the Marketplace issued a Disenrollment Notice stating that your insurance coverage, WellCare of New York, Inc., was terminated effective November 30, 2014.
7. On November 28, 2014, the Marketplace issued an eligibility determination notice. The notice states that based on your November 3, 2014, application you are eligible for up to \$296.00 monthly of advance premium tax credits and cost-sharing reductions, and not eligible for Medicaid effective December 1, 2014.
8. On December 26, 2014, you reapplied for health insurance through the Marketplace. On December 27, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective December 1, 2014.
9. You testified that you enrolled in MetroPlus Health Plan and paid a \$369.08 health insurance premium in order to have health insurance coverage for December 2014. You stated that you want to be reimbursed for that expense.
10. You testified that you incurred medical expenses from a December 10, 2014, doctor office visit. Your physician accepts Metro Health Plus and WellCare of New York, Inc., but not fee-for-service Medicaid.

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

## **Applicable Law and Regulations**

Medicaid through the Marketplace can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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 application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes

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or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an advance premium tax credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

An individual who does not meet the requirements for advance payments of the premium tax credit is not eligible for cost-sharing reductions (see 45 CFR § 155.305(g)(1)(i)(B)).

#### Reimbursement for Out-of-Pocket Expenses

Although Medicaid payments are generally made only to providers, 18 NYCRR § 360-7.5(a) provides two exceptions in which direct reimbursement of paid medical bills may be made to eligible Medicaid recipients or their representatives.

Under one exception, the regulation provides that Medicaid recipients or their representatives may be reimbursed when, through no fault of their own:

- (a) an erroneous Medicaid eligibility determination is reversed (whether the reversal is due to the state or local agency discovering its own error or is the result of a fair hearing decision or court order), or the state or local agency fails to determine Medicaid eligibility within the applicable time periods; and
- (b) an erroneous eligibility determination or the delay in determining eligibility caused the recipient or the recipient’s representative to pay for medically necessary services which otherwise would have been paid for by the Medicaid program.

(18 NYCRR §360-7.5(a)(3)(i).

## Legal Analysis

The first issue under review is whether the Marketplace properly found you eligible to receive up to \$296.00 per month in advance premium tax credits and cost-sharing reductions effective December 1, 2014.

On December 19, 2013, the Marketplace received your application for health insurance. Based on that application, the Marketplace issued an eligibility determination notice on February 19, 2014, stating that you are eligible for Medicaid effective January 1, 2014. On March 11, 2014, you enrolled in Well Care of New York, Inc. with an effective date of April 1, 2014.

On November 3, 2014, you updated the information in your Marketplace account. On November 28, 2014, the Marketplace issued an eligibility determination notice. The notice states that based on your November 3, 2014 application you are eligible for up to \$296.00 per month in advance premium tax credits and cost-sharing reductions, effective December 1, 2014. You were not eligible for Medicaid because your income was over the allowable limit for that program.

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for twelve months, even if the household income rises above 138% of the federal poverty level (FPL). This provision is called “continuous coverage.” This twelve-month period is based on the start date of the original Medicaid eligibility determination.

Since you were initially found eligible for Medicaid effective January 1, 2014, you should have remained eligible until December 31, 2014. Since an individual is not eligible for advance premium tax credits and cost-sharing reductions when eligible for Medicaid, the November 28, 2014 eligibility determination is **RESCINDED**.

The second issue under review is whether the Marketplace properly determined that the termination date of your Medicaid Managed Care plan was November 30, 2014.

On November 3, 2014, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible for up to \$296.00 monthly of advance premium tax credits and cost-sharing reductions. Based on that determination, the Marketplace issued a disenrollment notice on November 4, 2014, stating that your insurance coverage, WellCare of New York, Inc., was terminated effective November 30, 2014.

As discussed above, you were eligible for Medicaid until December 31, 2014, and as such you should not have been terminated from your Medicaid Managed Care plan until those twelve continuous months had been exhausted. Since the

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November 4, 2014, Notice of Disenrollment terminated your Medicaid coverage before the completion of twelve continuous months, it is RESCINDED.

Since you were improperly disenrolled from your Medicaid Managed Care plan prior to the end of your continuous coverage, your case is RETURNED to the Marketplace to reinstate you in WellCare of New York, Inc., for December 2014.

The December 27, 2014, Marketplace eligibility determination notice stating that you are eligible for Medicaid effective December 1, 2014, is MODIFIED to state you are eligible for Medicaid effective January 1, 2015, which would be the effective date of your renewal had your previous eligibility been continued for the entire twelve months.

You testified that as a result of the November 28, 2014 eligibility determination notice that found you eligible for an advance premium tax credit and cost-sharing reductions, you enrolled in MetroPlus Health Plan and paid a \$369.08 health insurance premium in order to have health insurance coverage for December 2014. You stated that you want to be reimbursed for that expense. You also testified that you incurred medical expenses from a December 10, 2014, doctor office visit. Your physician accepts Metro Health Plus and WellCare of New York, Inc., but not fee-for-service Medicaid.

In order to qualify for Medicaid reimbursement of third-party insurance premiums and out-of-pocket expenses, you must be eligible for Medicaid. Since you were eligible for Medicaid during December 2014, you may be eligible to be reimbursed by Medicaid for your out-of-pocket expenses for that month.

## **Decision**

The November 28, 2014 notice of eligibility determination and the November 4, 2014 disenrollment notice stating that your health insurance with New York State of Health is terminated effective November 30, 2014, are RESCINDED.

Your case is RETURNED to the Marketplace to reinstate you in WellCare of New York, Inc., for December 2014.

The December 27, 2014 Marketplace eligibility determination notice stating that you are eligible for Medicaid effective December 1, 2014, is MODIFIED to state you are eligible for Medicaid effective January 1, 2015.

You may be eligible for reimbursement expenses you have incurred.

**Effective Date of this Decision:** August 14, 2015

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

You should have been continuously eligible for Medicaid from January 1, 2014 to December 31, 2014.

Your case is being sent back to the Marketplace to reinstate you in your Managed Care Plan, WellCare of New York, Inc., for December 2014.

You are currently eligible for Medicaid effective 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.

## **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 November 28, 2014, notice of eligibility determination and the November 4, 2014 disenrollment notice stating that your health insurance with New York State of Health is terminated effective November 30, 2014, are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate you in WellCare of New York, Inc., for December 2014.

The December 27, 2014 Marketplace eligibility determination notice stating that you are eligible for Medicaid effective December 1, 2014, is **MODIFIED** to state you are eligible for Medicaid effective January 1, 2015

You should have been continuously eligible for Medicaid from January 1, 2014 to December 31, 2014.

Your case is being sent back to the Marketplace to reinstate you in your Managed Care Plan, WellCare of New York, Inc., for December 2014.

You are currently eligible for Medicaid effective January 1, 2015.

You may be eligible for reimbursement expenses you have incurred.

## **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:**

