



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

Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001409

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 19, 2014, notice of eligibility.

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

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Issues

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

If NY State of Health properly determined that you and your younger daughter's Medicaid Managed Care coverage through New York Catholic Health Plan, Inc. should be effective January 1, 2015?

If NY State of Health properly determined that your older daughter is only eligible for Fee-for-Service Medicaid as of December 19, 2014?

Procedural History

On January 24, 2014, the Marketplace received your initial application for health insurance. The Marketplace prepared a preliminary eligibility determination stating that in order for your eligibility to be determined, you must submit documents to confirm that the information you provided in your application is accurate.

On January 30, 2014, you uploaded income documentation to your Marketplace account.

That same day, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you, your spouse, and two children are eligible for Medicaid.

On September 18, 2014, the Marketplace issued an eligibility determination notice stating that you, your spouse, and your two children are eligible for Medicaid. However, because each of you has comprehensive Third Party Health Insurance, you cannot be enrolled in Medicaid Managed Care.

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On December 11, 2014, you uploaded to your Marketplace account a Certificate of Creditable Coverage from Florida Blue stating that you and your children's coverage termination date was February 28, 2014.

On December 12, and December 19, 2014, the Marketplace issued notices stating that you, your spouse, and children's Medicaid was effective November 1, 2014. However, only you, your spouse, and younger daughter would be enrolled with New York Catholic Health Plan, Inc. effective January 1, 2015.

On January 9, 2015, you spoke with the Marketplace's Account Review Unit and appealed (1) whether NY State of Health properly determined that you and your younger daughter's Medicaid Managed Care coverage through New York Catholic Health Plan, Inc. should be effective January 1, 2015, and (2) whether NY State of Health properly determined that your older daughter is only eligible for Fee-for-Service Medicaid as of December 19, 2014.

On January 18, 2015, the Marketplace issued a notice stating that you, your spouse, and your children's insurance coverage through Medicaid is effective January 1, 2015. The notice also states that you, your spouse, and your younger daughter's enrollment with New York State Catholic Health plan is effective January 1, 2015. However, your older daughter's enrollment with New York State Catholic Health plan is effective March 1, 2015.

On February 20, 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, your spouse, and your children, ages (4) and (1).
2. You plan on filing a 2014 federal income tax return with the tax status of married filing jointly and will claim both your children as dependents on that return.
3. On January 30, 2014, you submitted your 2012 U.S. Individual Income Tax Return with an adjusted gross income of \$18,499.00.
4. On January 30, 2014, the Marketplace prepared a preliminary eligibility determination stating that you, your spouse, and your children were eligible for Medicaid with a start date of January 1, 2014.

5. On September 18, 2014, the Marketplace issued a notice stating that you, your spouse, and your two children are eligible for Medicaid. However, because each of you has comprehensive Third Party Health Insurance, you cannot be enrolled in a Medicaid Managed Care plan.
6. On December 11, 2014, you uploaded to your Marketplace account a Certificate of Creditable Coverage from Florida Blue stating that you and your children's health insurance coverage termination date was February 28, 2014.
7. On December 12, and December 19, 2014, the Marketplace issued notices stating that only you, your spouse, and younger daughter would have enrollment with New York Catholic Health Plan, Inc. effective January 1, 2015. Your older daughter would not be eligible for enrollment with New York Catholic Health Plan, Inc.
8. On January 18, 2015, the Marketplace issued a notice stating that you, your spouse, your children's insurance coverage through Medicaid is effective January 1, 2015. The notice also states that you, your spouse, and your younger daughter's enrollment with New York State Catholic Health plan is effective January 1, 2015. However, your older daughter's enrollment with New York State Catholic Health plan is effective March 1, 2015.
9. You testified that you want you and your children's Medicaid Managed Care (MMC) plan with New York Catholic Plan, Inc. to be effective March 1, 2014.
10. You testified that since you and your children's MMC coverage did not properly begin on March 1, 2014; you have outstanding medical bills.

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

Applicable Law and Regulations

Medicaid coverage for adults:

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 that is at or below 138% of the federal poverty 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)).

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Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, unless the adult loses Medicaid eligibility because of citizenship status, lack of state residence, or failure to provide a valid social security number, before the end of a twelve month period. This twelve-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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Medicaid coverage for children under the age of nineteen:

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household’s modified adjusted gross income falls at or below 154% of the FPL (42 CFR § 435.118(c); New York State Department of Health Administrative Directive 130 HIP/ADM-03).

All Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household’s income increases above eligibility levels during that period (NY Social Services Law § 366(4)(b)(3)(i)).

If an applicant for health insurance is determined Medicaid eligible, coverage will begin on the first day of the first month that the applicant was determined eligible (18 NYCRR § 360-2.4(c)).

Medicaid Eligibility: Third Party Health Insurance:

As a condition of eligibility, the agency must require legally able applicants and beneficiaries to assign rights to the Medicaid agency to medical support and to payment for medical care from any third party. The applicant or beneficiary must cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan, unless the individual establishes good cause for not cooperating (42 CFR § 435.610(a)(3)).

Medicaid Managed Care (MMC):

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A “Managed Care Program” is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid

Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c).

The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state's obligations to CMS during the term of the demonstration.

The Partnership Plan provides that certain individuals cannot receive benefits through an MMC. Table 6 sets forth the individuals excluded from MMC, including individuals with access to comprehensive private health insurance if cost-effective.

Legal Analysis

Currently at issue is (1) whether New York State of Health properly determined that you and your younger daughter's Medicaid Managed Care coverage through New York Catholic Health Plan, Inc. should be effective January 1, 2015, and (2) whether NY State of Health properly determined that your older daughter is only eligible for Medicaid Fee-for-Service.

On January 30, 2014, you reapplied for health insurance through the Marketplace. On that application you indicated that your entire family had coverage under an eligible employer-sponsored health plan with an end date of February 5, 2014 with Health Option Inc.-FL. The Marketplace prepared a preliminary eligibility determination stating that you, your spouse, and two children are eligible for Medicaid.

Generally, individuals who are determined Medicaid eligible are required to be enrolled in a Medicaid Managed Care (MMC) Program, either by choosing a plan or being assigned an available plan. However, certain individuals are excluded from enrolling in a MMC plan. Individuals with access to comprehensive private health insurance, if cost effective, are excluded from enrolling in a MMC plan.

On September 18, 2014, the Marketplace issued an eligibility determination notice stating that you, your spouse, and your two children are eligible for Medicaid. However, because each of you has comprehensive Third Party Health Insurance, you cannot be enrolled in Medicaid Managed Care.

As a condition of eligibility of Medicaid, the agency must require applicants to assign rights to the Medicaid agency to medical support and to payment for medical care from any third party. The applicant must cooperate in identifying and providing information to assist the Medicaid agency in pursuing third parties who may be liable to pay for care and services under the plan.

On December 11, 2014, you uploaded to your Marketplace account a Certificate of Creditable Coverage from Florida Blue (Health Option Inc.-FL) stating that you and your children's health insurance coverage termination date was February 28, 2014. Based on that documentation, the Marketplace issued notices on December 12, and December 19, 2014, stating that only you, your spouse, and younger daughter would have enrollment with New York Catholic Health Plan, Inc. effective January 1, 2015.

Since you provided sufficient credible evidence on December 11, 2014, showing that you and your children's third party health insurance had a coverage termination date of February 28, 2014, your entire family should have been eligible for New York Catholic Health Plan, Inc. effective January 1, 2015. Therefore, the December 12, and December 19, 2014, notices are RESCINDED.

On January 18, 2015, the Marketplace issued a notice stating that you, your spouse, and your younger daughter's enrollment with New York State Catholic Health plan is effective January 1, 2015. However, your older daughter's enrollment with New York State Catholic Health plan is effective March 1, 2015. Since you provided credible evidence of your and your children's coverage termination on December 11, 2014, your entire family should have been eligible for New York Catholic Health Plan, Inc. effective January 1, 2015. Therefore, the January 18, 2015 Marketplace notice is MODIFIED insofar as to state that you and your children's coverage with New York State Catholic Health Plan, Inc. is effective January 1, 2015.

You testified that you have outstanding medical expenses. If you have medical expenses during January 2015 or February 2015 for your older daughter that resulted from not having insurance due to Marketplace error, you are eligible for reimbursement for those medical expenses.

At the hearing, you also indicated that you would like to have your daughter considered for retroactive Medicaid coverage going back to November 2013, the month your daughter was born. You testified that you have outstanding medical bills from November 2013.

Medicaid through the Marketplace became available as of January 1, 2014. Prior to that, that only place to get Medicaid coverage was through your Local District Office (LDSS). Since Medicaid was not available through the Marketplace prior to January 2014, we cannot address your request for Medicaid coverage prior to that date. You may however wish to pursue retroactive Medicaid during 2013 with your LDSS.

Decision

The December 12, and December 19, 2014 Marketplace notices are RESCINDED.

The January 18, 2015 Marketplace notice is MODIFIED insofar as to state that your older daughter's coverage with New York State Catholic Health Plan, Inc. is effective January 1, 2015.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

You, your spouse, and your children's New York State Catholic Health Plan, Inc. is effective January 1, 2015.

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of your older daughter's New York Catholic Health Plan, Inc. not being 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.

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

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- By calling the Customer Service Center at 1-855-355-5777
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Summary

The December 12, and December 19, 2014 Marketplace notices are RESCINDED.

The January 18, 2015 Marketplace notice is MODIFIED insofar as to state that your older daughter's coverage with New York State Catholic Health Plan, Inc. is effective January 1, 2015.

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of your older daughter's New York Catholic Health Plan, Inc. not being effective 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:

[REDACTED]
[REDACTED]
[REDACTED]