



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001466

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On March 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 15, 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).

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Issues

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

Did the Marketplace properly disenroll you from Medicaid Fee-For-Service effective January 31, 2015?

Did the Marketplace properly determine that you were eligible to receive an advance premium tax credit of up to \$271.00 per month and cost-sharing reductions as of January 15, 2015?

Procedural History

The Marketplace received your initial application for health insurance on September 16, 2014.

On September 17, 2014, the Marketplace issued a notice stating you may be eligible for health insurance through New York State of Health but more information is needed to make a determination.

On November 5, 2014, you submitted income documentation to your Marketplace account.

On November 12, 2014, the Marketplace redetermined your eligibility for health insurance. The Marketplace prepared a preliminary eligibility determination stating that you are Medicaid eligible.

On December 1, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective as of September 1, 2014.

On January 14, 2015, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible to receive up to \$271.00 in advance premium tax credits and cost-sharing reductions. The notice also states that you are not eligible for Medicaid because the household income you provided is over the allowable income.

On that same day you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as your health insurance eligibility through the Marketplace.

On January 15, 2015, the Marketplace issued an eligibility determination notice consistent with the January 14, 2015, preliminary determination.

On that same day, the Marketplace issued a Disenrollment Notice stating that your Medicaid Fee-For-Service coverage would be discontinued January 31, 2015.

On February 18, 2015, you had a scheduled telephone hearing with a Hearing Officer from the Marketplace Appeals Unit. On that date you requested an adjournment to allow you to have assistance during the hearing.

On February 19, 2015, you faxed additional documents to the Marketplace Appeals Unit:

- (a) A statement confirming your rescheduled hearing with the Marketplace Appeals Unit and the reasons for your appeal.
- (b) Release to Disclose Protected Information and Authorization of Designated Representative Form.
- (c) Charges Detail from [REDACTED] for services performed in September 2014.
- (d) Receipts of payment to [REDACTED].
- (e) A statement itemizing your monthly income and expenses.
- (f) A bar code page that links the documents you sent to your New York State of Health account.

These documents have been collectively marked as "Appellant Exhibit A" and have been entered into the record.

On March 5, 2015, you appeared for your rescheduled telephone hearing. Testimony was taken at the hearing with the assistance of your authorized representative, [REDACTED]. The record was developed during the 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 (Testimony; 1/14/2015 Marketplace application).
2. You plan on filing a 2015 federal income tax return with the tax status of single and will not claim any dependents on that return (Testimony; 1/14/2015 Marketplace application).
3. You are seeking retroactive Medicaid benefits (Testimony; Appellant Exhibit A pg. 1).
4. You indicated on your September 16, 2014 Marketplace application that you want help paying for medical bills from the last three months (9/16/2015 Marketplace application).
5. You were determined eligible for Medicaid by the Marketplace on November 12, 2014 effective September 1, 2014 (12/1/2015 Marketplace notice).
6. You testified that a Marketplace representative notified you that your Medicaid was discontinued in January 2015 because you were not eligible for Medicaid coverage.
7. Your last day of employment was May 29, 2014 (Appellant Exhibit B pg. 1).
8. On October 1, 2014, you faxed 6 pages of documentation to the Marketplace, which was uploaded to your account. Part of the documentation consists of pay stubs which show you received:
 - (a) Gross earnings of \$2,729.15 on May 29, 2014, with year-to-date gross earnings of \$26,138.49.
 - (b) Gross earnings of \$272.92 on June 26, 2014, with year-to-date gross earnings of \$29,140.19.
 - (c) Gross earnings of \$5,443.93 on August 7, 2014, with year-to-date gross earnings of \$34,584.12 (Appellant Exhibit B pgs. 1, 4-6).
9. You applied for Social Security Disability Insurance (SSDI) on June 6, 2014 (Testimony; Appellant Exhibit B pg. 1).
10. You were determined eligible to receive monthly disability benefits from Social Security on November 1, 2014. You received \$279.20 in benefits in November 2014, and \$1,698.00 in benefits in December 2014 and in the months following December 2014 (Appellant Exhibit C pg. 1).

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11. As of February 13, 2015, you have \$5,400.00 in outstanding medical bills from [REDACTED] from a September 5, 2014 service date (Testimony; Appellant Exhibit A pg. 3).

12. You are seeking reimbursement for medical expenses paid to [REDACTED]:

- (a) \$40.00 on August 7, 2014;
- (b) \$60.00 on August 15, 2014;
- (c) \$1,000.00 on September 5, 2014;
- (d) \$200.00 on October 15, 2014 (Testimony; Appellant Exhibit A pg 4-5).

13. You reside in Dutchess County, New York.

14. You want to formally complain that your doctor does not accept Fee-For-Service Medicaid because he only accepts payment from Medicaid Manage Care providers (Appellant Exhibit A pg. 1).

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

Applicable Law and Regulations

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

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes 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 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 Retroactive Coverage:

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. However, the applicant may be determined retroactively eligible for coverage for up to three months prior to their application, if they would have been eligible for during the month when medical care or services were received (18 NYCRR § 360-2.4(c))

Advance Premium Tax Credit:

The advance premium tax credit is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2014 FPL; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Legal Analysis

Currently at issue is the question of (1) whether the Marketplace properly discontinued your Medicaid Fee-For-Service based on a January 15, 2015 determination, and, based on such a finding, (2) whether the Marketplace correctly determined you eligible for up to \$271.00 monthly of advance premium tax credit and cost-sharing reductions.

On September 16, 2014, you initially applied for health insurance through the Marketplace. On September 17, 2014, the Marketplace issued a notice stating that you may be eligible for health insurance through New York State of Health but more information is needed to make a determination.

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On November 5, 2014, you submitted income documentation to your Marketplace account, and on November 12, 2014, the Marketplace redetermined your eligibility for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are Medicaid eligible, and on December 1, 2014, the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective as of September 1, 2014.

Generally, once adults are determined eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. This twelve-month period is based on the start date of the original Medicaid eligibility determination.

On January 14, 2015, you reapplied for health insurance through the Marketplace. The Marketplace prepared a preliminary eligibility determination stating that you are eligible to receive up to \$271.00 in advance premium tax credits and cost-sharing reductions. The notice also states that you are not eligible for Medicaid because the household income you provided is over the allowable income. You credibly testified that a Marketplace representative notified you that your Medicaid was discontinued in January 2015 because you were not eligible for Medicaid.

Since the January 15, 2015 Disenrollment Notice terminated your Medicaid Fee-For-Service coverage effective January 31, 2015, and before the completion of twelve continuous months, it is **RESCINDED**.

On January 15, 2015, the Marketplace issued an eligibility determination notice. The notice states that based on your January 14, 2015 application you are eligible for up to \$271.00 monthly of advance premium tax credits and cost-sharing reductions, and not eligible for Medicaid effective February 1, 2015.

Since an individual is not eligible for advance premium tax credits and cost-sharing reductions when eligible for Medicaid, the January 15, 2015 eligibility determination is **RESCINDED**.

On your September 16, 2014 Marketplace application, you indicated that you want help paying for medical bills from the last three months. Since you were determined eligible to receive Medicaid coverage on September 1, 2014, you may also be entitled to receive retroactive coverage beginning June 1, 2014, provided however, that you would have been eligible for Medicaid had an application been completed in June, July, or August 2014.

According to the record, your last day of employment was May 29, 2014. On October 1, 2014, you faxed income documentation to the Marketplace. You received: (1) Gross earnings of \$2,729.15 on May 29, 2014, with year-to-date

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gross earnings of \$26,138.49; Gross earnings of \$272.92 on June 26, 2014, with year-to-date gross earnings of \$29,140.19; Gross earnings of \$5,443.93 on August 7, 2014, with year-to-date gross earnings of \$34,584.12.

The credible evidence reflected in the record indicates that your household income for the month of June 2014 is \$3,001.70 (\$29,140.19 minus \$26,138.49). Since you did not receive any income in the month of July 2014, your income for that month is \$0.00. Since you received \$5,443.93 in the month of August 2014, your income for that month is \$5,443.93.

On the date of your initial application, the federal poverty level (FPL) was \$11,670.00 for a one-person household. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits may be based on current monthly household income and family size. To be eligible for Medicaid, you must meet the nonfinancial criteria and have an income no greater than 138% of the FPL. In order to be eligible for Medicaid a household of one must not exceed a monthly income limit of \$1,343.00.

Since your household income for the months of June and August 2014 exceeded \$1,343.00, you are not entitled to retroactive Medicaid benefits for those months.

Since July 2014 is the only month during the Medicaid retroactive period that your monthly income did not exceed \$1,343.00, your case is REMANDED to the Marketplace to determine whether you are eligible for Medicaid benefits retroactively for July 2014.

According to the record, you want to formally complain that your doctor does not accept Fee-For-Service Medicaid and accepts payments from Medicaid Managed Care providers. The Marketplace Appeals Unit is not authorized to address requests for reimbursement of services covered under a Medicaid Managed Care Plan.

A complaint line is available at 1-800-206-8125 or managedcarecomplaint@health.ny.gov to those who wish to file a complaint regarding a New York State managed care plan's refusal to pay a covered service.

Decision

The January 15, 2015 Disenrollment Notice terminating your Medicaid Fee-For-Service coverage effective January 31, 2015, is RESCINDED.

The January 15, 2015 eligibility determination is RESCINDED.

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The December 1, 2014 Marketplace eligibility determination notice stating that you are eligible for Medicaid effective as of September 1, 2014 is REINSTATED.

The case is REMANDED to the Marketplace to determine if you are eligible for Medicaid benefits retroactively for July 2014 based on a July monthly household income of \$0.00.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

This decision (cancels) the January 15, 2015 Disenrollment Notice terminating your Medicaid Fee-For-Service coverage effective January 31, 2015, and the January 15, 2015 eligibility determination.

This decision restores the December 1, 2015 eligibility determination notice finding you eligible for Medicaid effective September 1, 2014.

Your case is returned to the Marketplace to determine whether you are eligible for Medicaid benefits retroactively for July 2014 based on a July monthly household income of \$0.00.

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

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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
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- By fax: 1-855-900-5557

Summary

This decision (cancels) the January 15, 2015 Disenrollment Notice terminating your Medicaid Fee-For-Service coverage effective January 31, 2015, and the January 15, 2015, eligibility determination.

This decision restores the December 1, 2015 eligibility determination notice finding you eligible for Medicaid effective September 1, 2014.

Your case is returned to the Marketplace to determine whether you are eligible for Medicaid benefits retroactively for July 2014 based on a July monthly household income of \$0.00.

A complaint line is available at 1-800-206-8125 or managedcarecomplaint@health.ny.gov to those who wish to file a complaint regarding a New York State managed care plan's refusal to pay a covered service.

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]