



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: AP000000001563

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 27, 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 7, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001563

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine that your coverage under Medicaid through the Marketplace would terminate effective December 31, 2014?

## Procedural History

On December 26, 2013, the Marketplace sent you a notice confirming that you chose to receive all information from New York State of Health electronically.

On January 7, 2014, the Marketplace received your modified application for health insurance.

On February 19, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid effective January 1, 2014. On that same day, the Marketplace also issued a notice stating that your enrollment with a Medicaid managed care plan would begin March 1, 2014.

On November 6, 2014, the Marketplace issued a notice stating that it was time to renew your health insurance coverage for 2015. The notice stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether you qualified for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014, or the financial help you were receiving might end.

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No updates were made to your account by December 20, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice stating that you were no longer eligible for Medicaid or to receive financial assistance to help pay for your health coverage, because you had not responded to the renewal notice and had not completed your renewal within the required timeframe. The notice further stated, however, that your information would be sent to your local Department of Social Services (LDSS) to determine your eligibility for Medicaid on a different basis. It stated that your Medicaid coverage would continue until your LDSS made a decision regarding your Medicaid eligibility.

On December 27, 2014, the Marketplace issued a disenrollment notice, which stated that your enrollment with your Medicaid manage care plan would end effective December 31, 2014. It did not state whether your coverage under basic Medicaid fee-for-service would continue.

On January 15, 2015, you modified your application for insurance through the Marketplace.

On January 16, 2015, the Marketplace issued an eligibility redetermination notice, stating that you were eligible to purchase a qualified health plan at full cost through New York State of Health, effective February 1, 2015. It further stated that you are not eligible for Medicaid because you were “[o]ver [the] MAGI age limit.” You were not eligible for tax credits to help pay for health insurance because your income was under the allowable limit.

On January 22, 2015, you spoke with the Marketplace’s Account Review Unit and appealed the Marketplace’s termination of your Medicaid coverage without providing you with the proper notice.

On February 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. At that time, you designated [REDACTED] as your Authorized Representative. [REDACTED] was sworn in and appeared on your behalf. 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) The record reflects that, as of December 26, 2013, you elected to receive all information from New York State of Health electronically. You testified that you were not aware that you had made that election when you initially applied on December 23, 2013, as the application

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was done on a computer. You further testified that you rely on physical notices, not electronic notices. You did not receive any emails.

- 2) Your account is now set to send you notices through the US mail.
- 3) The record reflects that you turned [REDACTED] old on [REDACTED].
- 4) The record reflects that you were notified that you were no longer eligible for Medicaid by a notice issued by the Marketplace on December 22, 2014. This notice further stated that your Medicaid coverage would continue until your local Department of Social Services determined your eligibility for Medicaid on a different basis.
- 5) The record reflects that On December 27, 2014, the Marketplace issued a notice that your enrollment with your Medicaid managed care plan would be terminated effective December 31, 2014.
- 6) You testified that you did not know that your Medicaid coverage was terminated until after your coverage had ended.
- 7) You testified that you went to a doctor's appointment in January but could not be seen because you were told that you no longer had health insurance and you must pay for the visit out-of-pocket. You further testified that you were not aware that your Medicaid coverage had been terminated at that time.
- 8) You testified that you are currently enrolled in Medicare Part A as of January 1, 2015.
- 9) You testified that because you had Medicaid coverage throughout 2014, you did not elect to purchase Medicare Part B coverage during the open enrollment period. You further testified that, due to your Medicaid termination, you had to apply for Medicare Part B coverage on January 16, 2015 but your coverage would not begin until July 2015.
- 10) You testified that you have had to pay for a health insurance plan out of pocket so that you can receive medical services.
- 11) You testified that you had not gone to your local Department of Social Services to apply for Medicaid. You further testified that you had gone to your local Department of Social Services last year, but were told that you needed to have a spend-down.

- 12) You testified that you did not receive proper notice before your Medicaid coverage terminated, which has caused you to pay for many out-of-pocket medical expenses.
- 13) At the February 26, 2015 hearing, your Authorized Representative, [REDACTED], appeared on your behalf.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The eligibility of Medicaid beneficiaries whose financial eligibility is determined through the Marketplace must be renewed once every 12 months, and no more frequently than once every 12 months (42 CFR § 435.916(a)(1)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for that year, including any expected eligibility for financial assistance (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice within a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice, and any reported changes (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

In order for coverage to have been effective January 1, 2015, changes must have been made on or before December 20, 2014 (45 CFR § 155.410(f)(1); NY State of Health Extends December 15 Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-extends-december-15-enrollment-deadline> [last updated December 12, 2014]).

## MAGI-based Medicaid

There are two primary places to apply for Medicaid in New York State, the New York State of Health Marketplace and your Local Department of Social Services (LDSS) or, if you live in one of New York City's five boroughs, the New York City Human Resources Administration (HRA). Generally, adults aged 19 to 64 apply for Medicaid through the Marketplace, and adults over the age of 65 who are not parents or caretaker relatives apply for Medicaid through their LDSS or the HRA.

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-based Medicaid through the Marketplace is to determine if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-based Medicaid through the Marketplace, you must be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B
- A pregnant woman or infant
- A child aged 1-18
- A parent or caretaker relative

If you fall into one of these categories, the Marketplace must determine your eligibility for Medicaid using MAGI rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through your LDSS or the HRA (N.Y. Soc. Serv. Law § 366(1)(c)).

## Notice of Termination of Eligibility for Medicaid

If a Medicaid recipient has been determined ineligible for Medicaid, then their Medicaid coverage will be terminated. Upon this determination, the recipient has a right to timely and adequate notice of their discontinuance of Medicaid benefits (18 NYCRR § 360-2.7(a)-(b); 18 NYCRR § 358-3.3(a)(1)).

The effective date of discontinuance will be the date the recipient becomes ineligible, or a later date if necessary in order to provide the recipient with timely notice of the discontinuance (18 NYCRR § 360-2.7(a)).

The Marketplace must give beneficiaries timely and adequate notice of any proposed action to terminate, discontinue, or suspend their eligibility under Medicaid (42 CFR § 435.919(a)). The Marketplace must send a notice at least 10

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days before the effective date of action, with some exceptions not relevant here (42 CFR § 431.211, 18 NYCRR § 358-2.23).

## **Legal Analysis**

The first issue is whether you were provided timely notice before you were disenrolled from Medicaid coverage effective December 31, 2014.

According to the record, you were eligible for Medicaid coverage effective January 1, 2014, and were enrolled in a Medicaid managed care plan, effective March 1, 2014.

On November 6, 2014, the Marketplace sent you a notice that it was time to renew your health insurance coverage for 2015. It also stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for financial help paying for your health coverage. You were requested to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

However, you credibly testified that you had not received any such electronic notices, and that you did not know your Medicaid had ended until you sought treatment in January 2015.

Moreover, the Marketplace stated that it had referred your case to your Local Department of Social Services (LDSS), and that until such time as the LDSS made a determination as to whether you would qualify for Medicaid through them, the Marketplace would continue covering you through Medicaid.

However, the Marketplace failed to refer your case to your LDSS and failed to continue your Marketplace coverage as it was on December 22, 2014.

When the Marketplace did not receive your updated information by December 20, 2014, it proceeded to end your coverage through Medicaid effective December 31, 2014, both through the managed care plan and through fee-for-service.

Additionally, you were not given the necessary warning that your Medicaid coverage was due to end.

Because the Marketplace failed to refer your case to your LDSS, failed to continue your Medicaid coverage as it said it would, and failed to provide you with the required notice that your Medicaid coverage had ended, it is determined that your coverage under Medicaid through your managed care plan should have continued until such time as you were provided with the appropriate notice.

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Your case is RETURNED to the Marketplace to reinstate your Medicaid coverage through your managed care plan effective January 1, 2015, until your LDSS makes a determination regarding your Medicaid eligibility, as reflected in the December 22, 2014 eligibility determination notice.

The Marketplace will refer your case to your LDSS for consideration.

Your LDSS will determine your eligibility for Medicaid.

Regardless of the determination of your LDSS, your eligibility for and coverage under Medicaid through the Marketplace will end no later than December 31, 2015.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact your LDSS. A listing of offices can be found at [http://www.health.ny.gov/health\\_care/medicaid/ldss.htm](http://www.health.ny.gov/health_care/medicaid/ldss.htm).

## **Decision**

The Marketplace failed to provide you timely notice that your Medicaid coverage would be discontinued effective December 31, 2014, and improperly terminated your Medicaid coverage.

Your case is RETURNED to the Marketplace to reinstate your Medicaid coverage effective January 1, 2015, until your local Department of Social Services makes a determination regarding your Medicaid eligibility, as reflected in the December 22, 2014 eligibility determination notice.

Your Medicaid coverage through the Marketplace will terminate either upon the local Department of Social Services' determination regarding your Medicaid eligibility, or upon the commencement of your Medicare Part B plan on July 1, 2015, whichever event occurs sooner. In no event will your Medicaid coverage through the Marketplace continue past December 31, 2015.

**Effective Date of this Decision:** August 7, 2015

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

Your Medicaid coverage in your Medicaid managed care plan will be reinstated effective January 1, 2015 until one of the aforementioned triggering events occurs.

The Marketplace will refer your case to your local Department of Social Services for consideration.

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The local Department of Social Services will determine your eligibility for Medicaid.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at [http://www.health.ny.gov/health\\_care/medicaid/ldss.htm](http://www.health.ny.gov/health_care/medicaid/ldss.htm).

## **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 Marketplace failed to provide you timely notice that your Medicaid coverage would be discontinued effective December 31, 2014, and improperly terminated your Medicaid coverage.

Your case is RETURNED to the Marketplace to reinstate your Medicaid coverage effective January 1, 2015, until your local Department of Social Services makes a determination regarding your Medicaid eligibility, as reflected in the December 22, 2014 eligibility determination notice.

Your Medicaid coverage through the Marketplace will terminate either upon the local Department of Social Services' determination regarding your Medicaid eligibility, or upon the commencement of your Medicare Part B plan on July 1, 2015, whichever event occurs sooner. In no event will your Medicaid coverage through the Marketplace continue past December 31, 2015.

Your Medicaid coverage in your Medicaid managed care plan will be reinstated effective January 1, 2015, until one of the aforementioned triggering events occurs.

The Marketplace will refer your case to your local Department of Social Services for consideration.

The local Department of Social Services will determine your eligibility for Medicaid.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at [http://www.health.ny.gov/health\\_care/medicaid/ldss.htm](http://www.health.ny.gov/health_care/medicaid/ldss.htm).

## 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]

[REDACTED]  
[REDACTED]  
[REDACTED]