



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: AP000000001635

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 15, 2014 and January 30, 2015 eligibility determinations.

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 Code of Federal Regulation (CFR) 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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Issue

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

Did the Marketplace properly determine in the November 15, 2014 eligibility determination that you were not eligible to enroll in health insurance through the Marketplace, or to receive financial assistance?

Did the Marketplace properly determine that your family was eligible to receive an advance premium tax credit of up to \$208.00 per month and cost-sharing reductions effective March 1, 2015?

Procedural History

The Marketplace received your initial application for health insurance on March 26, 2014.

Between March 26, 2014 and May 1, 2014, your application was modified several times.

On May 2, 2014, the Marketplace issued an eligibility determination notice, stating that you remained conditionally eligible for Medicaid, effective May 1, 2014, based on a household income of \$21,040.00. The notice further stated that you must provide proof that you were not incarcerated, before August 2, 2014, in order to confirm your eligibility, or you might be found ineligible for health insurance.

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On November 15, 2014, the Marketplace issued an eligibility redetermination notice that stated you were not eligible for Medicaid, to receive tax credits, or to receive cost-sharing reductions. It also stated that you could not enroll in a qualified health plan at full cost through the Marketplace because you had not provided proof of your incarceration status, which was required to confirm your eligibility.

On November 16, 2014, the Marketplace issued a disenrollment notice, which stated that your insurance coverage with Excellus Health Plan, Inc. would end effective November 30, 2014 because you were no longer eligible to enroll in health insurance through New York State of Health because of information indicating that you were incarcerated.

On January 21, 2015 and January 29, 2015, the information in your Marketplace account was updated.

On January 22, 2015, the Marketplace issued a notice acknowledging your January 21, 2015 application, stating that it was unable to determine your incarceration status. You were informed that your Medicaid coverage was suspended, and that it could only be resumed when you were released.

A copy of your current paystubs were also uploaded to your Marketplace account on January 27, 2015, as proof that you are not incarcerated.

On January 30, 2015, the Marketplace issued an eligibility determination notice that stated you were eligible to receive an advance premium tax credit of up to \$208.00 per month and cost-sharing reductions effective March 1, 2015.

Also on January 30, 2015, you spoke with the Marketplace's Account Review Unit and appealed the eligibility determination insofar as your Medicaid eligibility was discontinued effective November 30, 2014 and your new financial assistance eligibility began on March 1, 2015, not January 1, 2015.

On March 20, 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 provide you an opportunity to submit evidence to support your position.

The Marketplace's Appeals Unit did not receive your supporting evidence by April 4, 2015, and the record was closed.

Findings of Fact

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

- 1) You testified that when you originally applied for health insurance through the NY State of Health Marketplace in March 2014, you were instructed by a Marketplace representative that you needed to provide a copy of your current paystubs because the Marketplace system indicated that you might be incarcerated. You further testified that you submitted a copy of your paystubs in March 2014 as proof that you were not incarcerated as of the time of your initial application.
- 2) According to your initial March 26, 2014 application for health insurance, the Marketplace system reflected that you might be in jail or prison. According to the same application, you attested that you did not agree with this assessment.
- 3) You testified that you have never been, and are not currently, incarcerated.
- 4) You testified that you had two to three telephone conversations with Marketplace representatives regarding the discrepancy in your incarceration status, but the issue had not been resolved.
- 5) The record reflects that a copy of your paystubs for the months of December 2014 and January 2015 were uploaded to your Marketplace account on January 27, 2015 (Appellant's Exhibit 1, March 20, 2015). These are the only paystubs in your account.
- 6) You testified that you did not receive the November 15, 2014 eligibility redetermination notice or the November 16, 2014 disenrollment notice from the Marketplace. You further testified that you did not receive any email alerts that informed you of these notices.
- 7) You testified that you received a notice from your insurance provider in December 2014, which stated that your coverage would be renewed for 2015.
- 8) You testified that you were not aware that your coverage was terminated until you went to see a doctor in February 2015. You did not explain, if you were not already aware there was a problem with your coverage, why you uploaded your pay stubs for December 2014 and December 2015 in January 2015, or why you updated your account on January 21, 2015.
- 9) You testified that after your doctor appointment, you spoke to a Marketplace representative in February 2015 and again confirmed that you had never been incarcerated. You further testified that the representative stated that you were sent emails alerts that the Marketplace uploaded notices to your account. You testified that after

this conversation, you accessed your Marketplace account and viewed the notices.

- 10) You testified that you incurred medical bills in February 2015 and requested reimbursement for these medical bills.

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

Applicable Law and Regulations

Eligibility for Enrollment in a Qualified Health Plan

Generally, an applicant is eligible for enrollment in a qualified health plan (QHP) through the Marketplace if he or she: (1) is a citizen or national of the United States, (2) is not incarcerated, and (3) is a resident of the state (45 CFR § 155.305(a)(1)-(3)).

The Marketplace must verify an applicant's attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant's attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3), (f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)).

Medicaid Continuous Coverage

Most adults determined eligible for Medicaid 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 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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

However, individuals whose coverage is temporarily pending the submission of documentation regarding citizenship, other health insurance, or incarceration are ineligible for continuous coverage if the case is closed for non-compliance (see

13 ADM 03 [Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010], Section III, Subsection G(3)).

Document Verification

The Marketplace must verify an applicant's attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant's attestation when electronic data sources are unavailable (45 CFR § 155.315(e)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible to enroll in Medicaid effective November 30, 2014.

The Marketplace must redetermine a qualified individual's eligibility for health insurance, and financial assistance to help pay for that health insurance, annually.

On May 2, 2014, the Marketplace issued an eligibility determination notice that stated you were conditionally eligible for Medicaid effective May 1, 2014. The Marketplace system indicated that you might be incarcerated and you were asked to provide proof of your incarceration status before August 2, 2014 to confirm your eligibility. Failure to provide proof might cause you to be ineligible for health insurance through the Marketplace.

On August 2, 2014, the Marketplace had not received any updated information from you. Therefore, the Marketplace was required to use the information that was contained in your Marketplace account in order to redetermine your eligibility for ongoing coverage.

Individuals whose coverage is temporarily pending the submission of documentation regarding incarceration are ineligible for continuous coverage if the case is closed for non-compliance.

On November 15, 2014, the Marketplace issued an eligibility determination that you were not eligible to enroll in Medicaid because you had not provided proof of

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your incarceration status. Though you testified that you submitted a copy of your paystubs in March 2014, there is no record that the paystubs were received by the Marketplace by August 2, 2014. You were not eligible to remain enrolled in Medicaid because the Marketplace did not receive proof of your incarceration status at the time your eligibility was redetermined on November 15, 2014.

Therefore, the Marketplace's November 15, 2014 eligibility determination is **AFFIRMED**.

The second issue is whether the Marketplace properly determined that your eligibility for an advance premium tax credit (APTC) of up to \$208.00 per month and eligibility for cost-sharing reductions was effective March 1, 2015.

Between January 21, 2015 and January 29, 2015, you updated the information in your Marketplace account. This resulted in a January 30, 2015 eligibility determination notice that stated you are eligible to receive an APTC of up to \$208.00 per month and cost-sharing reductions. This eligibility was effective March 1, 2015.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the resulting redetermination effective the first day of the second following month.

Therefore, the Marketplace's January 30, 2015 eligibility determination is **AFFIRMED**.

Decision

The November 15, 2014 eligibility determination is **AFFIRMED**.

The January 30, 2015 eligibility determination is **AFFIRMED**.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

Your enrollment in your Medicaid managed care plan ended on November 30, 2014.

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 15, 2014 eligibility determination is AFFIRMED.

The January 30, 2015 eligibility determination is AFFIRMED.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]