



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

Notice of Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001684

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On February 27, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 4 and 20, 2014 renewal redeterminations.

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).

This page intentionally left blank.



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

Decision

Decision Date: July 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001684

[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, effective January 1, 2015, you are eligible for Medicaid as stated in the renewal notices dated November 4 and 20, 2014?

Procedural History

On November 4, 2014 and again on November 20, 2014, the Marketplace issued notices that it was time to renew your health coverage. Those notices informed you that you cannot be enrolled in your current health plan and need to select a different health plan if you want coverage in 2015. The notices also determined that you now qualify for health care coverage under Medicaid effective January 1, 2015, because federal and state data sources show that your income is between \$0 and \$16,105.00.

On December 21, 2014, the Marketplace issued an enrollment letter confirming that your insurance coverage through Medicaid will begin January 1, 2015, which also stated that you must choose a plan or one will be chosen for you.

On December 28, 2014, the Marketplace issued a disenrollment notice telling you that your coverage with North Shore-LIJ CareConnect Gold EPO will end effective December 31, 2014, because you are no longer eligible to be enrolled in your current health plan.

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).

On January 31, 2015, the Marketplace issued another notice stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until December 31, 2015. This notice was based on a preliminary determination made on November 16, 2014.

Also on January 31, 2015, the Marketplace issued another letter confirming that your insurance coverage through Medicaid will begin January 1, 2015, but you must choose a plan or one will be chosen for you.

On February 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed your eligibility for Medicaid.

On February 27, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

Findings of Fact

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

1. You testified that you plan on filing your 2015 taxes with a tax filing status of single. You further testified that you will claim no one as a dependent on that tax return.
2. According to your Marketplace account and your testimony at hearing, you were enrolled in a gold-level qualified health plan (QHP) from April 1, 2014 to December 31, 2014, and received \$219.00 per month of advance premium tax credit based on an attested income of \$25,200.00.
3. According to your Marketplace account and your testimony at the hearing, your 2014 annual income was \$25,200.00. You testified that there was no change in your income in November or December 2014.
4. Your Marketplace account shows that as of January 30, 2015, you changed your income on your application to \$18,000.00.
5. You testified at the hearing that you expect your 2015 annual income to be \$21,000.00.

6. You testified that you receive notices by mail but did not receive the November 4 or 20, 2014 renewal notices so you did not respond to the eligibility redetermination that you qualify for Medicaid effective January 1, 2015.
7. You testified that you went to an office in [REDACTED] New York and were told it is okay to have Medicaid but, if you do not rightfully qualify for it, any payments made on your behalf may be subject to recovery.
8. You testified you do not want Medicaid and want to be able to purchase a qualified health plan through the Marketplace and to be eligible for advance premium tax credits.
9. You testified that you received your Medicaid insurance benefit card and so far used it twice in 2015 when you went to the doctor and to fill a prescription.
10. You reside in Nassau County, New York.

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 (MAGI) 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).

A person whose Medicaid eligibility is based on the MAGI of the person or the person's household remains Medicaid eligible for twelve months unless the person becomes

ineligible due to “citizenship status, lack of [New York] state residence, or failure to provide a valid social security number” (N.Y. Social Services Law § 366.4(c)).

Advance Premium Tax Credit

People who use the advance premium tax credit (APTC) to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax return). Those who take less tax credit in advance than they claim on the tax return may have their taxes reduced or get the rest of the credit as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

A person who is eligible for Medicaid coverage is not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Special Enrollment Period

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)). The initial open enrollment period began October 1, 2013 and extended through March 31, 2014 (45 CFR §155.410(b)).

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another plan. This is permitted in a case where, in part, the following triggering events occur:

...(4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or

...(6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions...

(45 CFR § 155.420(d)).

Legal Analysis

The issue raised on appeal is whether the Marketplace correctly found, in the November 16, 2014 preliminary eligibility determination and the November 20, 2014 renewal notice that you were eligible for Medicaid effective January 1, 2015; and in the January 31, 2015 eligibility determination that you were eligible for twelve months of Medicaid continuous coverage.

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).

According to your Marketplace account, the Marketplace's November 16, 2014 Medicaid preliminary determination was based on federal and state data sources. No corresponding notice of eligibility was issued. However, on November 20, 2014, the Marketplace issued a renewal notice indicating that you would become eligible for Medicaid on January 1, 2015, and advised you to update your account between November 16, 2014 and December 15, 2014 if the Marketplace had made a mistake or if there had been any changes that would affect your eligibility.

You testified that you did not respond to this renewal notice because you had not received it and, accordingly, did not update your Marketplace account. However, you credibly testified that your 2014 income was \$25,200.00, as you had reported on your Marketplace application, and your income for November 2014 and December 2014 was consistent with your earnings in all other months in 2014 of \$2,100.00 per month. Since the information from federal and state data sources that the Marketplace relied upon on the November 16, 2014 preliminary determination is contrary to your attested income of \$25,200.00 (or \$2,100.00 per month in 2014), this raises the question of which income source most accurately reflected your income at that time and should have been used when determining your eligibility.

During your hearing, you testified that you attested to an expected income of \$18,000.00 when your application was updated on January 30, 2015; however you further testified that your expected annual income for 2015 will be more likely around \$21,000.00

Therefore, the credible evidence of record indicates that as of November 16, 2014, your monthly earnings were \$2,100.00, or \$25,200.00 annually, and as of January 1, 2015, your monthly earnings are \$1,750.00, or \$21,000.00 annually, as opposed to what federal and state data sources indicate of between \$0 and \$16,105.00. Therefore, your attested income was more reliable at the time of the Marketplace's November 16, 2014 preliminary eligibility determination and your eligibility should have been computed using that amount on your application. Further, at the hearing, you testified that your expected income for 2015 will be \$21,000.00, or \$1,750.00 per month, which is the most reliable income at this time.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the federal poverty level (FPL) for the applicable family size.

According to the record, you are the only person in your tax household.

On November 16, 2014, a one-person household with an annual household income of \$25,200 was at 219.32% of the FPL, and therefore was ineligible for Medicaid. Since you were ineligible for Medicaid, you were also ineligible for continuous coverage under that program. Notwithstanding and in the interest of justice, your Medicaid coverage will

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).

remain in effect until such time that the Marketplace has redetermined your eligibility based on a one-person household and an expected 2015 income of \$21,000.00.

In addition, when a qualified individual's enrollment or non-enrollment in a qualified health plan (QHP) is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or Department of Health and Human Services (HHS), or its instrumentalities as evaluated and determined by the Exchange, a special enrollment period is triggered. You appealed the eligibility determination once you realized that you did not qualify for Medicaid or continuous coverage under that program and, more importantly, because you wished to be re-enrolled in a QHP with an advance premium tax credit (APTC). Since the record suggests that the Medicaid eligibility and continuous coverage was made in error based on incorrect information from federal and state data sources, you are being granted a special enrollment period.

The November 20, 2014 renewal notice is MODIFIED to state that you are conditionally eligible for Medicaid as of January 1, 2015.

The December 20, 2014 Medicaid enrollment letter continues in effect.

The January 31, 2015 notice of eligibility redetermination is RESCINDED.

Since your eligibility for financial support was not properly determined on your application, your case is returned to the Marketplace for a redetermination of eligibility using a one-person household in Nassau County, with an expected 2015 income of \$21,000.00.

Decision

The November 20, 2014 renewal notice is MODIFIED to state that you are conditionally eligible for Medicaid as of January 1, 2015.

The December 20, 2014 Medicaid enrollment letter continues in effect.

The January 31, 2015 notice of eligibility redetermination is RESCINDED.

Since your eligibility for financial support was not properly determined on your application, your case is returned to the Marketplace for a redetermination of eligibility using a one-person household in Nassau County, with an expected 2015 income of \$21,000.00.

Effective Date of this Decision: July 3, 2015

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).

How this Decision Affects Your Eligibility

This decision does not change your eligibility. You remain conditionally eligible for Medicaid pending the Marketplace's redetermination.

The decision returns your case to the Marketplace for a redetermination of eligibility using a one-person household in Nassau County, with an expected 2015 income of \$21,000.00.

You are being granted a special enrollment period of 60 days from the date the Marketplace issues an eligibility redetermination in your case.

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 20, 2014 renewal notice is MODIFIED to state that you are conditionally eligible for Medicaid as of January 1, 2015.

The December 20, 2014 Medicaid enrollment letter continues in effect.

The January 31, 2015 notice of eligibility redetermination is RESCINDED.

This decision does not change your eligibility. You remain conditionally eligible for Medicaid pending the Marketplace's redetermination.

Since your eligibility for financial support was not properly determined on your application, your case is returned to the Marketplace for a redetermination of eligibility using a one-person household in Nassau County, with an expected 2015 income of \$21,000.00.

You are being granted a special enrollment period of 60 days from the date the Marketplace issues an eligibility redetermination in your case.

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]