



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

Notice of Decision

Decision Date: July 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001694

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 12, 2014 notice of enrollment regarding your enrollment start date for Medicaid of November 1, 2014, and your request for retroactive Medicaid coverage for the month of October 2014.

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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[REDACTED]
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Issue

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

Did the Marketplace properly determine that you were not eligible for retroactive Medicaid coverage for the month of October 2014?

Procedural History

The Marketplace received your initial application for health insurance on September 4, 2014. That same day, it issued a notice of eligibility determination that you were eligible to receive an advance premium tax credit of up to \$240.00 per month and, if you selected a silver-level qualified health plan, for cost-sharing reductions.

On September 5, 2014, the Marketplace issued a letter confirming your health plan selection with SilverPlus-S2 and your monthly premium responsibility of \$134.42. That letter said your health insurance coverage will begin after you have paid your first month's premium, which could start as early as October 1, 2014 if you pay your premium for that month.

On October 22, 2014, the Marketplace sent you a cancellation notice that said your coverage with Silver-Plus-S2, a Metro Plus Health Plan, is cancelled effective October 1, 2014, because a premium payment was not received by the health plan within the required time frame.

On November 18, 2014, you updated your application and indicated you needed help paying for medical bills from the last three months.

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On December 1, 2014, the Marketplace issued a notice of eligibility redetermination that said, as of November 18, 2014, you were eligible for Medicaid, effective November 1, 2014 and needed to pick a plan. This notice also acknowledged that you wanted the Marketplace to review your application to see if you are eligible for Medicaid coverage for medical bills within the three month period prior to your application and informed you that you needed to provide proof of income from August 1, 2014 to October 31, 2014 by December 3, 2014.

On December 12, 2014, the Marketplace sent you a letter to confirm your enrollment as of December 11, 2014. The letter stated that your insurance coverage through Medicaid will begin November 1, 2014 and enrollment with United Healthcare of New York, Inc. will begin January 1, 2015. It also informed you that you needed to provide documentation to prove your income before December 20, 2014.

According to your Marketplace account, on February 3, 2015, the Marketplace preliminarily declined your request for retroactive Medicaid "...for the months of Aug[ust] and Sept[ember] [2014] as income of \$2400 a month is above the Medicaid [l]evel of \$1343" and further declined retroactive Medicaid "...for the month of October [2014] as [you were] enrolled in an APTC health plan Metro Plus Health Plan." The Marketplace did not issue a notice of eligibility determination to this effect.

On February 4, 2015, you appealed the denial of retroactive Medicaid Fee for Service for the month of October 2014.

On February 5, 2015, the Marketplace issued a letter confirming your request for a telephone hearing regarding its denial of retroactive Medicaid Fee for Service coverage for the month of October 2014.

On March 6, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit proof of October 2014 income. The record was to be closed by March 19, 2015 or upon receipt of your proof, whichever was earlier.

On March 9, 2015, the Marketplace's Appeals Unit received a four page fax from you. It consisted of: (1) A cover page; (2) A March 6, 2015 letter from your employer regarding your October 2014 income; and, (3) Copies of two check images from the employer's bank business account for checks dated October 10, 2014 and October 17, 2014. These documents were made part of the record as "Appellant's Exhibit C."

Since the requested evidence had been received, the record was closed that same day.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are single and have no dependents.
- 2) You plan on filing your 2014 federal income tax return as single and will not be claiming any dependents.
- 3) According to your Marketplace application and your testimony at the hearing, you usually earn \$600.00 gross per week from your employment, except for the month of October 2014, and you now work part-time.
- 4) A Certified Account Specialist sent the Marketplace a five page fax, dated November 26, 2014, which in part consists of a November 24, 2014 letter from your employer. Your employer states in the letter that you started your employment on October 10, 2013, took a medical leave on October 21, 2014, and underwent surgery on October 23, 2014. Your employer further indicates in the letter that your gross weekly salary is \$600.00 and “[t]he three months prior to her surgery she made a total gross income of \$7,200.00” (Appellant’s Exhibits A and B, p.2).
- 5) From October 23, 2014 to November 3, 2014, you were hospitalized and have been billed \$168,353.12 in gross hospital charges (Appellant’s Exhibit B, pp. 3-5).
- 6) You testified that you are paid weekly and only received two pay-checks in October 2014. You provided a March 6, 2015 letter from your employer that states you were paid twice in October 2014: Once on October 10, 2014 in the gross amount of \$600.00; and a second time on October 17, 2014, in the gross amount of \$600.00 (Appellant’s Exhibit C, p.2).
- 7) You also provided copies of check images for these dates from your employer’s [REDACTED] bank account with Check # [REDACTED] dated October 10, 2014 showing a net pay of \$513.00, and Check # [REDACTED] dated October 17, 2014 showing a net pay of \$513.00 (Appellant’s Exhibit C, pp.3-4).
- 8) You testified that you need retroactive coverage under Medicaid for the month of October 2014, to cover your hospital bills.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Medicaid

To qualify for Medicaid a person must meet the nonfinancial criteria and have a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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 § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

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).

For a Medicaid eligibility determination made on December 1, 2014, the allowable income limit for a one-person household is \$16,105.00, or \$1,343.00 per month based on 100% of the applicable FPL of \$11,670.00(79 Fed. Reg. 3593 (2014)). The same is true for October and November 2014.

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)). The applicant may be determined retroactively eligible for coverage for up

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to three months prior to their application, if they would have been eligible for Medicaid during the month when medical care or services were received (*Id.*).

Legal Analysis

Initially, in this particular case, the lack of a notice of eligibility determination on the issue of denial of retroactive Medicaid coverage does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. First, under 45 CFR § 155.505(b), you are as entitled to appeal Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

The text of the Marketplace's February 5, 2015 letter, which acknowledges the appeal on the issue of denial of retroactive Medicaid coverage, as well as the February 3, 2015 note entry on your Marketplace account, which denies your request for retroactive Medicaid coverage for the month of October 2014, permits an inference that the Marketplace did deny your request for Medicaid retroactive coverage. Furthermore, since Appeal Unit review of Marketplace determinations is performed on a *de novo* basis, no deference would have been granted to the notice of eligibility determination on that issue had it been issued.

The only matter under review is whether you qualify for retroactive Medicaid coverage for the month of October 2014.

Since you were determined Medicaid eligible as of November 18, 2014, you would be generally entitled to begin your Medicaid coverage on November 1, 2014, as the Marketplace's December 1, 2014 notice of eligibility redetermination correctly states. Further, since you were determined eligible to receive Medicaid coverage on November 1, 2014, you might have also be entitled to receive retroactive coverage beginning no earlier than three months prior to that determination, or August 1, 2014, provided however, that you would have been eligible for Medicaid had an application been made at that earlier time. You are only seeking to have retroactive Medicaid coverage for the month of October 2014.

To determine your eligibility for retroactive Medicaid coverage in October 2014, your household size and monthly income for that month needed to be considered. You testified, and your Marketplace account reflects, that you are single with no dependents and expect to file your 2014 federal income tax return that way. Therefore, for purposes of Medicaid, you have a one-person household. You also credibly testified and provided documentary proof that in October 2014, you received two paychecks for \$600.00 each of gross income on October 10, 2014 and October 17, 2014, which equals a monthly income of \$1,200.00.

The credible testimony provided at the hearing and reflected in the record indicates that your household income for the months of August 2014 and September 2014 was \$2,400.00, which is over the allowable income limit of \$1,343.00 to qualify for retroactive

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Medicaid coverage and which you do not dispute. However, your household income was \$1,200.00 for the month of October 2014, which is less than the \$1,343.00 monthly income limit for Medicaid (138% of the monthly 2014 FPL of \$11,670.00). Since 18 NYCRR § 360-2.4(c) provides for a retroactive finding of eligibility up to three months prior to the application date, you should not have been denied retroactive Medicaid coverage for October 2014. Therefore the Marketplace's denial of retroactive Medicaid coverage for the month of October 2014 is RESCINDED.

Decision

The Marketplace's determination is RESCINDED insofar as you were denied retroactive Medicaid coverage for the month of October 2014.

Your case is returned to the Marketplace to redetermine your eligibility for retroactive Medicaid coverage for the month of October 2014 based on a one-person household with a household income of \$1,200.00.

Effective Date of this Decision: July 8, 2015

How this Decision Affects Your Eligibility

This Decision does not affect your eligibility for Medicaid as of November 1, 2014.

It finds that you are eligible for retroactive Medicaid coverage for the month of October 2014.

Your case is returned to the Marketplace to redetermine your eligibility for retroactive Medicaid coverage for the month of October 2014 based on a one-person household with a household income of \$1,200.00.

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.

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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:
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- By fax: 1-855-900-5557

Summary

The Marketplace's determination is RESCINDED insofar as you were denied retroactive Medicaid coverage for the month of October 2014.

Your case is returned to the Marketplace to redetermine your eligibility for retroactive Medicaid coverage for the month of October 2014 based on a one-person household with a household income of \$1,200.00.

This Decision does not affect your eligibility for Medicaid as of November 1, 2014.

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]