



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

## Notice of Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001750

[REDACTED]

Dear [REDACTED],

On March 30, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 12, 2015 denial of Medicaid premium assistance.

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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## Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001750

[REDACTED]

## Issue

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

Did the Marketplace properly determine that you will not receive premium assistance through Medicaid for your third-party health insurance?

## Procedural History

The Marketplace received your initial application for health insurance on November 14, 2013.

Between November 14, 2013 and November 5, 2014, you modified your application several times.

On November 27, 2014, the Marketplace issued an eligibility determination notice that stated you were conditionally eligible for Medicaid effective November 1, 2014. It also stated that you could not be enrolled in a Medicaid managed care plan because you had comprehensive third-party health insurance. The notice further stated that “[t]he Medicaid program may be able to pay for your health insurance premiums if it is determined to be cost effective.”

Similar notices were issued on December 19, 2014 and January 6, 2015.

On January 12, 2015, the Marketplace issued a notice that stated: “We have determined that it is not cost effective for New York State of Health to pay for [your] health insurance premiums... If you are currently enrolled in this health

insurance plan, you remain responsible for payment of your health insurance premium bills.”

On February 9, 2015, the Marketplace received your February 6, 2015 written request to appeal the denial of assistance with your third-party health insurance premiums insofar as you were not granted whole or partial payment of your monthly insurance premium.

On March 23, 2015, you were scheduled to have a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. At the time of the hearing, you had not been provided an opportunity to review the evidence packet and the Hearing Officer adjourned the hearing.

On March 30, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. At that time, you waived your right to formal notice and proceeded with the hearing. 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 currently single and live in Suffolk County, New York.
- 2) According to the January 5, 2015 application, you expect an annual household income of \$0.00 for the 2015 tax year.
- 3) The record reflects that you have health insurance coverage as a surviving spouse of a former employee of the [REDACTED] through NYSHIP – The Empire Plan. For 2014 coverage, you had a premium responsibility of \$805.05 per month (Third Party Liability Unit Exhibit 1, March 30, 2015). You testified that you have paid your monthly premiums for this plan and, as of the March 30, 2015 hearing, your coverage was still effective.
- 4) On or about November 7, 2014, you requested that the Marketplace consider whether you can qualify for a premium assistance program (Third Party Liability Unit Exhibit 1, March 30, 2015).
- 5) On November 27, 2014, the Marketplace issued an eligibility determination that you were conditionally eligible for Medicaid. On January 9, 2015, the Marketplace issued an eligibility redetermination that you were eligible for Medicaid.

- 6) On January 12, 2015, the Department of Health's Third Party Resource Unit used the programmed HIPP calculator in eMedNY, New York State's electronic Medicaid system, to determine the average cost of Medicaid, if Medicaid were paying a managed care plan to provide twelve months of coverage beginning on January 12, 2015. The Third Party Resource Unit determined that twelve months of managed care plan coverage would cost \$7,614.84. It further determined that the cost of your NYSHIP – The Empire Plan premium payments for the same period would be \$9,660.60 (Third Party Liability Unit Exhibit 1, March 30, 2015).
- 7) On February 6, 2015, you wrote to the Marketplace appealing its determination that it is not cost effective to provide premium assistance for your NYSHIP – The Empire Plan premium payments. You further contend that you should be entitled to part-payment of your monthly insurance premiums (Appellant's Exhibit 1, March 30, 2015).
- 8) You testified, upon review of the HIPP calculations, it is difficult to discern whether the proper plan codes were utilized when determining which services were covered by your NYSHIP –The Empire Plan insurance plan. You further testified that you conducted research to identify which codes were used but were unable to match the codes properly.
- 9) You are requesting partial payment of your monthly insurance premiums because you require the out-of-network coverage the NYSHIP –The Empire Plan provides, which a Medicaid managed care plan may not provide.

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

## **Applicable Law and Regulations**

The state or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (Social Security Act § 1902(a)(25); 42 USC § 1396(a)). Third parties include health insurers, self-insured plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (*id.*).

When a Medicaid recipient has health insurance in force and is enrolled in a group health insurance plan or a group health plan covering care and other medical benefits, then payment or part-payment of the premium, co-insurance, any deductible amounts, and other cost-sharing obligations for such insurance

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may also be made when deemed cost-effective (NY Soc. Serv. Law § 367-a(1)(b)).

In New York, payment or part-payment of the premiums for personal health insurance is made by the Medicaid program to the insurance carrier or to another appropriate third party when authorized under the Medicaid program (18 NYCRR § 360-7.5(g), (a)(2)). The Medicaid assistance program will pay or partly pay premiums for Medicaid recipients if it is determined that full or partial payment would reduce the expense of providing Medicaid services (18 NYCRR §360-7.5(g)(3)).

The cost-benefit analysis for cost-effective premiums that is to be relied upon by NY State of Health is performed by the Department of Health's Third Party Resource Unit (13 ADM-03 [Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010], Section III, Subsection I). The unit performs this analysis using a programmed calculator known as HIPP calculator (GIS 13 MA/012 (May 1, 2013)).

If the policy is determined not to be cost-effective, the Medicaid recipient is then under no obligation to enroll or maintain enrollment in that plan (87 ADM-40 [Third Party Resources (TPR) Detection and Utilization], Section IV, Subsection A(2)(f)(1)(c)).

The determinations of cost effectiveness are subject to appeal (13 ADM-03, Section III, Subsection J).

## **Legal Analysis**

The issue under review is whether the Medicaid program should provide payment or part payment of premium assistance for the health insurance that you are receiving under NYSHIP – The Empire Plan.

You are Medicaid eligible and you have continued your health insurance coverage with NYSHIP – The Empire Plan.

On November 27, 2014, December 19, 2014, January 6, 2015, and January 9, 2015, the Marketplace advised you that the Medicaid program might be able to pay your health insurance premiums if it is determined to be cost effective for Medicaid to do so.

The Medicaid assistance program will pay or partly pay premiums for a Medicaid recipient's personal health insurance if it is determined that full or partial payment of the premium would reduce the expense of providing Medicaid services.

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You provided documentation to the Marketplace showing that your monthly premium for 2015 costs \$805.05, which is \$9,660.60 for twelve months. According to the HIPP calculator, it would cost Medicaid an average of \$7,614.84 to provide coverage through a managed care plan in your county for that same period. Since paying the premiums for your personal health insurance would cost Medicaid \$2,045.76 more than providing you coverage directly, it is not cost-effective for Medicaid to pay your monthly NYSHIP – The Empire Plan premiums. Furthermore, there is insufficient evidence in the record to find that partial payment of the monthly premiums for NYSHIP – The Empire Plan coverage would *reduce* the expense of providing Medicaid services.

Since it would not be cost effective for Medicaid to pay your NYSHIP – The Empire Plan premiums, nor would part-payment of the premiums reduce the expense of providing Medicaid services, your request to Medicaid to pay your monthly premiums was properly denied.

## **Decision**

The Marketplace's denial of Medicaid premium assistance remains in effect.

You remain eligible for Medicaid as of November 1, 2014.

**Effective Date of this Decision:** August 18, 2015

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

You remain eligible for Medicaid as of November 1, 2014.

You remain ineligible to enroll in a Medicaid Managed Care plan while covered through a third-party health insurance plan.

## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The Marketplace's denial of Medicaid premium assistance remains in effect.

You remain eligible for Medicaid as of November 1, 2014.

You remain ineligible to enroll in a Medicaid Managed Care plan while covered through a Third Party Health Insurance plan.

### **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:**

