



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

Notice of Decision

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001761

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 24, 2015, you appeared by telephone at a hearing on the NY State of Health Marketplace's December 14, 2014 and February 14, 2015 enrollment notices.

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

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001761

[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 you are eligible for Medicaid as of June 1, 2014 and eligible for retroactive Medicaid coverage as of May 1, 2014, but not April 1, 2014?

Procedural History

On May 29, 2014 and June 6, 2014, you submitted applications to the Marketplace and requested help with paying medical bills for the last three months.

On June 6, 2014, the Marketplace prepared preliminary eligibility determination based on your application. It determined that you were eligible for Medicaid effective June 1, 2014. No formal notice was issued by the Marketplace.

On July 1, 2014, you updated your Marketplace application and again requested help with paying medical bills for the last three months.

On July 2, 2014, the Marketplace issued a notice of eligibility redetermination that you remain eligible for Medicaid because your annual household income of \$8,100.00 is at or below the allowable income limit of \$16,105.00. The notice stated that your insurance coverage through Medicaid will begin June 1, 2014, but you had to choose a plan or one would be chosen for you. The notice further stated that, since you wanted your application reviewed to see if you are eligible for Medicaid coverage for the medical bills

within the last three months prior to your application, you needed to provide proof of income from March 1, 2014 to May 31, 2014 by July 16, 2014.

On July 7, 2014, the Marketplace issued an enrollment notice confirming that your insurance coverage through Medicaid will begin June 1, 2014, and your enrollment with New York State Catholic Health Plan, Inc. will begin July 1, 2014.

According to your Marketplace account, on October 20, 2014, the Marketplace declined your request for retroactive Medicaid coverage for the months of March 2014 and April 2014 and approved retroactive Medicaid coverage for the month of May 2014.

On December 14, 2014, the Marketplace issued an enrollment notice confirming your insurance coverage through Medicaid will begin April 1, 2014, and your enrollment with New York State Catholic Health Plan, Inc. will begin July 1, 2014.

On February 12, 2015, you spoke with a representative from the Marketplace's Appeals Unit and appealed being denied retroactive Medicaid coverage for April 2014.

On February 14, 2015, the Marketplace issued another enrollment notice confirming your insurance coverage through Medicaid will begin April 1, 2014, and your enrollment with New York State Catholic Health Plan, Inc. will begin July 1, 2014.

On March 24, 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 notes of your several conversations with Marketplace representatives.

That same day, the Marketplace received a twenty-five page fax from you consisting of notes you had taken during conversations with Marketplace representatives. The twenty-five page fax was made part of the record as "Appellant's Exhibit F."

Since the requested documentation was received, the record was closed that same day.

Findings of Fact

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

- 1) You are single and timely provided proof of earnings in 2014 of \$8,100.00 as a seasonal employee (██████████) when you initially applied for health insurance on May 29, 2014.
- 2) According to the income documents you uploaded that same day, you received \$700.00 gross earnings each on March 7, 2014, March 14, 2014, March 21, 2014, and March 28, 2014, totaling \$2,800.00; and \$700.00 gross earnings on April 4, 2014, \$600.00 on April 11, 2014, and \$500.00 on April 18, 2014, totaling \$1,800.00 (Appellant's Exhibit A).

- 3) You also timely uploaded a letter on your employer's letterhead that stated you received your last paycheck on April 10, 2014 (Appellant's Exhibit B).
- 4) You also timely uploaded a letter on your employer's letterhead that you did not receive any payroll checks in May 2014 (Appellant's Exhibit C).
- 5) You testified that you had no sources of income in May 2014 or June 2014 and your income was \$0.00 for those months.
- 6) You also uploaded an earnings statement with a pay date of July 11, 2014, that you received miscellaneous pay of \$308.00 and year to date earnings of \$8,908.00 (Appellants' Exhibit D).
- 7) In a letter, dated August 28, 2014, you requested that your Medicaid coverage effective June 1, 2014 be backdated to cover your hospital expenses from April 22, 2014 to April 28, 2014 (Appellant's Exhibit D, p. 1).
- 8) Along with that letter you submitted an "EmedNY" printout from [REDACTED] [REDACTED] that indicates as of April 22, 2014, you were not Medicaid eligible (Appellant's Exhibit A, p. 3).
- 9) You have tried to process the April 2014 hospital-related bills through Medicaid based on the Marketplace notices stating your coverage was effective April 1, 2014, but the bills have been repeatedly denied on the basis that you were not enrolled in Medicaid in April 2014.
- 10) Your twenty-five pages of notes reflect that you had numerous conversations with Marketplace representatives in an effort to get your Medicaid coverage backdated to cover your April 2014 hospital-related bills without success (Appellant's Exhibit F).
- 11) On May 8, 2015, the Marketplace again issued a notice confirming your insurance coverage through Medicaid as of April 1, 2014, and your enrollment in New York State Catholic Health Plan, Inc., as of July 1, 2014.

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).

Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

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

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).

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 June 6, 2014 and July 1, 2014 applications, that was the 2014 FPL, which is \$11,670.00 for a one-person household, or \$1,343.00 per month (79 Fed. Reg. 3593, 3593).

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 March 19, 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 to three months prior to their application, if they would have been eligible for during the month when medical care or services were received (*Id.*).

Legal Analysis

You submitted applications on May 29, 2014, June 6, 2014 and July 1, 2014, and requested help with paying your medical bills for the last three months each time. You also uploaded all of the necessary documents to your Marketplace account on May 29, 2014 and June 5, 2014 that were needed for the Marketplace to determine your eligibility for retroactive Medicaid coverage. The Marketplace reviewed these documents on October 10, 2014 and denied your request for retroactive Medicaid coverage for March 2014 and April 2014, but found you eligible for May 2014. No notice regarding its determination for retroactive Medicaid was issued. The Marketplace did issue enrollment notices on December 14, 2014 and February 14, 2015 that were contrary to the start date you were given of May 1, 2014 in that the notices stated your Medicaid coverage would begin as of April 1, 2014.

Although the Marketplace did not issue a timely notice of eligibility determination regarding retroactive Medicaid coverage, this does not prevent the Appeals Unit from reaching the merits of your case on your February 15, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews of Marketplace determinations on a *de novo* basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

The matter under review is when your Medicaid retroactive coverage should have taken effect. The preliminary eligibility determination of June 6, 2014 and the eligibility redetermination issued on July 2, 2014 both found you to be eligible for Medicaid, with coverage to begin on June 1, 2014. The Marketplace later determined that you were eligible for Medicaid retroactively to May 1, 2014, and denied retroactive coverage for the months of March 2014 and April 2014, because you received income over the allowable monthly limit of \$1,343.00 in both of those months.

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. On the date of your June 6, 2014 and July 1, 2014 applications, your expected income of \$8,100.00 was 69.41% of the 2014 FPL. Therefore the Marketplace properly found you to be eligible for Medicaid coverage based on the information provided in your application.

The same would be true had the Marketplace used your monthly income for June 2014, in which you had no income, because your June 2014 income of \$0.00 is 0.0% of the FPL. Therefore, you were eligible for Medicaid as of the first of that month using either your annual or monthly income.

Since you were initially determined Medicaid eligible on June 6, 2014 and again redetermined on July 2, 2014 to remain Medicaid eligible, you would generally be entitled to begin your Medicaid coverage on June 1, 2014. Since you were determined eligible to receive Medicaid coverage on June 1, 2014, you might also be entitled to receive retroactive coverage beginning no earlier than three months prior to that determination, or March 1, 2014, provided however, that you would have been eligible for Medicaid had an application been made on your behalf at that earlier time.

The Marketplace looks at the income that you *received* during each of the three prior months to determine if you would have been eligible for Medicaid in those months. Based on the record, you received earnings of \$2,800.00 in March 2014 and \$1,800.00 in April 2014, such that your income for each of these months exceeds the maximum allowable monthly income of \$1,343.00 to be eligible for Medicaid. Therefore, the Marketplace correctly determined that you were not eligible for Medicaid in either of those two months.

Further, the record reflects that your employer provided a written statement on business letterhead that you did not receive any paychecks in May 2014 and you credibly testified that you did not have any income that month. Therefore, the Marketplace properly determined that you were eligible for retroactive Medicaid that month, that is, as of May 1, 2015.

Notwithstanding that the Marketplace issued two enrollment notices before your hearing and one afterward, all of which stated "your insurance coverage through Medicaid will begin April 1, 2014 and enrollment with New York State Catholic Health Plan, Inc. will begin July 1, 2014," these notices are defective. As stated above, you were not eligible for Medicaid in the month of April 2014 because the income you received that month was \$1,800.00. Therefore, these enrollment notices are modified to state that your insurance coverage through Medicaid will begin May 1, 2014.

Decision

The Marketplace did not issue a timely notice of eligibility determination in connection with your June 6, 2014 and July 1, 2014 applications insofar as you requested

retroactive Medicaid coverage be approved. However, the lack of such a notice does not affect your eligibility for Medicaid as of June 1, 2014.

The July 2, 2014 eligibility determination is AFFIRMED.

The December 14, 2014, February 14, 2015, and May 8, 2015 enrollment notices are MODIFIED to state, in relevant part, that your insurance coverage through Medicaid will begin May 1, 2014.

Effective Date of this Decision: July 15, 2015

How this Decision Affects Eligibility

You are eligible for Medicaid effective June 1, 2014.

You are eligible for Medicaid retroactive coverage as of May 1, 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 Marketplace did not issue a timely notice of eligibility determination in connection with your June 6, 2014 and July 1, 2014 applications. However, the lack of such a notice does not affect your eligibility for Medicaid as of June 1, 2014.

The July 2, 2014 eligibility determination is AFFIRMED.

The December 14, 2014, February 14, 2015, and May 8, 2015 enrollment notices are MODIFIED to state, in relevant part, that your insurance coverage through Medicaid will begin May 1, 2014.

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You are eligible for Medicaid effective June 1, 2014.

You are eligible for Medicaid retroactive coverage as of May 1, 2014.

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]