



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: AP000000001834

[REDACTED]

Dear [REDACTED],

On April 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 15, 2015 disenrollment notice.

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).

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Decision

Decision Date: August 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001834



Issue

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

Did the Marketplace properly terminate your enrollment in your Medicaid Managed Care plan with EmblemHealth effective January 31, 2015?

Procedural History

The Marketplace received your modified application for health insurance on March 13, 2014.

On March 14, 2014, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid effective March 1, 2014. The notice further stated that your enrollment with Health Insurance Plan of Greater New York would begin April 1, 2014.

On January 7, 2015, the Marketplace issued a notice that stated it was time for you to renew your health insurance coverage for 2015. You could not be reenrolled in your old coverage, and you needed to select a new plan. This notice further stated that you were not eligible for Medicaid because of your income, but did qualify for a tax credit up to \$300.26 per month to help pay for your health coverage and that you could also receive reductions in out-of-pocket costs if you enrolled in a silver level plan. This eligibility was effective March 1, 2015. The notice also stated that if the information in this notice was incorrect, you would need to update your account by February 15, 2015 in order for any such changes to be in affect by March 1, 2015.

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On January 14, 2015, the information in your Marketplace account was updated.

Also on January 15, 2015, the Marketplace issued a notice stating that it could not make a determination as to your eligibility, and that more information was needed.

Also on January 15, 2015, the Marketplace issued a disenrollment notice that stated your insurance coverage with EmblemHealth, your Medicaid managed care plan, would end effective January 31, 2015.

On January 22, 2015, the information in your Marketplace account was updated.

On February 5, 2015, the Marketplace issued an eligibility redetermination notice that stated you were eligible for Medicaid effective February 1, 2015.

On February 19, 2015, you spoke with the Marketplace's Account Review Unit and appealed the January 15, 2015 disenrollment notice insofar as it prematurely discontinued your Medicaid coverage with your managed care plan before the end of your 12-month coverage year.

On April 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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 the only person in your tax household.
- 2) You testified, and the March 14, 2014 eligibility determination notice reflects, that you were determined eligible for Medicaid effective March 1, 2014. This notice further reflects that your enrollment in your Medicaid Managed Care (MMC) plan, Health Insurance Plan of Greater New York, was effective April 1, 2014.
- 3) You testified that you were told that your Medicaid coverage was retroactively effective to February 1, 2014.
- 4) The Marketplace's system reflects that your initial Medicaid fee-for-service coverage began on January 1, 2014 and ended on January 31, 2015. The Marketplace's system further reflects that your initial MMC enrollment with EmblemHealth began on April 1, 2014 and was tentatively scheduled to end March 31, 2015.

- 5) You testified that you are aware that Medicaid coverage runs for one year.
- 6) You testified that you received the January 7, 2015 renewal notice regarding your health insurance coverage through the Marketplace. You further testified that you called the Marketplace on January 14, 2015 and spoke with Marketplace Representative # [REDACTED], who informed you that you were locked into your MMC coverage with EmblemHealth until March 31, 2015 even if your Medicaid fee-for-service coverage ended. You testified that you relied upon that information.
- 7) You testified, and provided evidence, that you were approved for 8 physical therapy visits by HIP Health Plan of New York (HIP) from January 26, 2015 to March 9, 2015 (Appellant's Exhibit 1, April 3, 2015).
- 8) You testified that you received the disenrollment notice but, in reliance of the January 14, 2015 conversation with Marketplace Representative # [REDACTED], you went to 6 physical therapy visits between January 26, 2015 and February 17, 2015. You further testified that you have now incurred outstanding medical bills for these physical therapy visits.
- 9) You requested reimbursement of the medical bills incurred due to miscommunications made by the Marketplace Representative on behalf of the Marketplace.
- 10) The recording of your January 14, 2015 telephone call has been reviewed; during the conversation, the customer service representative said several times that you were enrolled in your MMC coverage until March 31, 2015 and that you could not be disenrolled from of the plan.

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

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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)).

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person's household remains Medicaid eligible for 12 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)).

Legal Analysis

The only issue is whether the Marketplace properly terminated your Medicaid Managed Care (MMC) plan enrollment with EmblemHealth effective January 31, 2015.

The record reflects that you began your application for health insurance through New York State of Health on January 2, 2014, and modified your application on March 13, 2014.

A person who is determined eligible for Medicaid remains Medicaid eligible for 12 months unless the person becomes ineligible due to citizenship status, lack of New York State residence, or failure to provide a social security number.

On March 14, 2014, the Marketplace issued an eligibility determination that you were Medicaid eligible effective March 1, 2014. This eligibility determination, however, does not correspond to the Marketplace system's Enrollment History, which indicates a Medicaid fee-for-service coverage start date of January 1, 2014 and a prospective coverage end date of January 31, 2015. Although you testified that you were aware that your Medicaid coverage was retroactively effective February 1, 2014, there is insufficient evidence in the record to conclude that you were made aware that your Medicaid fee-for-service coverage began on January 1, 2014. Since the Marketplace system reflects that your Medicaid coverage ran from January 1, 2014 to January 31, 2015, you were given 13 months of coverage, which is one month more than would be consistent with the continuous Medicaid coverage section of the New York Social Services Law.

Since the Marketplace properly terminated your Medicaid coverage after receiving 12 months of continuous Medicaid coverage, and extended this coverage for an additional month, the Marketplace's January 15, 2015 disenrollment notice is **AFFIRMED**.

However, a review of the recording of your conversation with Marketplace Customer Service Representative # [REDACTED] on January 14, 2015, which occurred after you received the January 7, 2015 renewal notice issued by the Marketplace, corroborated your testimony. You were informed you that you were "locked-into"

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your MMC plan enrollment with EmblemHealth until March 31, 2015, and that even if your Medicaid fee-for-service coverage ended, your enrollment in your MMC plan would continue until March 31, 2015.

Nevertheless, it is noted that the information provided during the January 14, 2015 conversation was incorrect. The Social Services Law does provide 12 months of continuous Medicaid coverage for adults, but it does not specify that a MMC plan enrollment may extend past the end of the 12 month Medicaid eligibility period.

However, review of the recorded conversation suggests that you reasonably relied upon the information provided numerous times by an agent of the Marketplace. Therefore, your MMC enrollment with EmblemHealth will be continued until March 31, 2015.

Therefore, your case is RETURNED to the Marketplace to reinstate your MMC enrollment with EmblemHealth effective February 1, 2015 to March 31, 2015.

Your case is being referred to the Marketplace to process your request.

Decision

The January 15, 2015 disenrollment notice is AFFIRMED.

Your case is RETURNED to the Marketplace to reinstate your Medicaid Managed Care plan enrollment with EmblemHealth effective February 1, 2015 to March 31, 2015.

Effective Date of this Decision: August 18, 2015

How this Decision Affects Your Eligibility

You are eligible for reimbursement by Medicaid for medical bills incurred between February 1, 2015 and March 31, 2015.

Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

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
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- By fax: 1-855-900-5557

Summary

The January 15, 2015 disenrollment notice is **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to reinstate your Medicaid Managed Care plan enrollment with EmblemHealth effective February 1, 2015 to March 31, 2015.

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You are eligible for reimbursement by Medicaid for medical bills incurred between February 1, 2015 and March 31, 2015.

Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

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:

