



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

## Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001909

[REDACTED]

Dear [REDACTED],

On March 25, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 9, 2015 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001909

[REDACTED]

## Issue

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

Did the NY State of Health Marketplace properly determine that you and your spouse were disenrolled from your qualified health effective January 31, 2015?

## Procedural History

On November 18, 2014, the Marketplace prepared a preliminary eligibility redetermination based on your updated application that you and your spouse are newly eligible to receive advance premium tax credits of up to \$422.00 monthly and, if you select a silver-level qualified health plan, for cost-sharing reductions, effective January 1, 2015.

On November 27, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the November 18, 2014 preliminary determination. That notice also informed you that you and your spouse were no longer eligible for Medicaid because your household income was over the allowable limit for this program.

On December 9, 2014, the Marketplace issued a letter confirming that you and your spouse had selected a bronze-level qualified health plan, Total Independence Bronze; your monthly premium responsibility was \$459.52, and

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health insurance coverage could start as early as January 1, 2015, if you pay your first month's premium.

On December 25, 2014, the Marketplace issued a disenrollment notice that you and your spouse's 2014 insurance with NYS Catholic Health Plan, Inc. will end effective December 31, 2014.

On January 8, 2015, you updated your income in your Marketplace account and the Marketplace prepared a preliminary eligibility redetermination that you and your spouse were eligible for Medicaid as of January 1, 2015.

On January 9, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 8, 2015 preliminary redetermination.

That same day, the Marketplace issued a letter confirming your enrollment in Medicaid Fee-for-Service, effective January 1, 2015, and Independent Health Association, Inc., effective February 1, 2015.

Also that same day, the Marketplace issued a disenrollment notice that your insurance with Total Independence Bronze will end effective January 31, 2015, because you and your spouse are no longer eligible to remain enrolled in your current plan. The document stated that the Marketplace received your request to cancel insurance coverage through New York State Catholic Health Plan, Inc.

On March 2, 2015, you appealed the disenrollment date of January 31, 2015, regarding your health insurance with Total Independence Bronze and requested that it be made retroactive to December 31, 2014.

On March 25, 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. According to your Marketplace application, you and your wife plan on filing your 2015 tax return as Married Filing Jointly and will be claiming your three minor children as dependents.

2. According to your Marketplace application, your monthly income is \$1,372.00 in Social Security benefits and your wife's additional yearly income is \$11,650.00, or \$970.83 monthly.
3. You testified that as of January 1, 2015, you and your wife were enrolled in a bronze-level plan with Health Republic of New York (Health Republic), and you had paid the monthly premium of \$459.52 in advance.
4. You testified that you did not use the bronze plan during the month of January 2015.
5. You further testified that neither you nor your spouse had other private insurance, Medicare Part A or B, or state-sponsored insurance.
6. You testified that, after the Marketplace determined you and your wife to be Medicaid eligible beginning on January 1, 2015, you called Health Republic to request a refund of the January 2015 premium you had paid.
7. You testified that you were told by a representative with Health Republic that they could not refund your premium until and unless the Marketplace determined your coverage with them is cancelled for the month of January 2015.
8. You testified that you and your wife have received Medicaid benefit cards and you used your health insurance with Independent Health Association, Inc., a Medicaid Managed Care plan, in February 2015 successfully.
9. You testified that you are seeking to have your bronze-level qualified health plan cancelled for the month of January 2015, because you and your wife were Medicaid eligible that month, and you want to be reimbursed for the full cost of the premium you paid to Health Republic for January 2015, which is \$459.52.

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

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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 § 435.911(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 2015 FPL, which is \$24,579.00 for a five-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be 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).

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.*).

### Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan and (1) expects to have a household income between 138% and 400% of the 2013 federal poverty level; (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a qualified health plan; and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

### Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

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## Termination of Coverage

The Marketplace must permit an enrollee to terminate his or her coverage with a qualified health plan, including when an enrollee obtains minimum essential coverage, with appropriate notice to the Marketplace or qualified health plan with appropriate notice to the Marketplace or qualified health plan (45 CFR §155.430(b)(1)).

For enrollee-initiated terminations, the last day of coverage is either:

- The termination date specified by the enrollee, if they provide notice at least 14 days before the requested termination becomes effective;
- Fourteen days after the enrollee requests the termination, if they do not provide 14 days' notice; or
- On a date on or after the date the enrollee requests the termination, subject to the determination of the enrollee's qualified health plan issuer, if the enrollee's qualified health plan issuer agrees to effectuate termination in fewer than 14 days, and the enrollee requests an earlier termination effective date

(45 CFR § 155.430(d)(2)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether, as of January 8, 2015, you and your wife qualified for Medicaid coverage to begin on January 1, 2015; and, if so, whether you no longer qualify for advance premium tax credits such that your coverage in a bronze-level qualified health plan as of January 1, 2015 should have been cancelled as of that date.

According to the record, you and your wife are in a five-person household.

In order to be eligible for Medicaid through the Marketplace, you must meet certain nonfinancial criteria. Comparison of the January 8, 2015, and November 18, 2014 Marketplace applications reveals no material difference in information you provided regarding the non-financial factors for Medicaid eligibility. In addition to meeting the non-financial criteria listed above, you also must have a household income that is no more than 138% of the current federal poverty level (FPL) to qualify for Medicaid. On January 8, 2015, the FPL for your household was \$24,579.00, so you would be eligible for Medicaid with an income no greater than \$39,206.00 (138% of \$24,579.00), or \$3,268.00.

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When your application was submitted on January 8, 2015, you attested to a household income of \$28,114.00, which is comprised of your Social Security Title II benefits of \$16,464.00 and your wife's additional income of \$11,650.00. The credible evidence shows that your monthly income is \$1,372.00 and it is reasonable to infer that your wife's monthly income is \$970.83, which equals \$2,342.83. Since your monthly household income is \$2,342.83, which is below the allowable income limit of \$3,268.00, the Marketplace was correct in determining that you and your wife are eligible for Medicaid the first of the month in which you qualified, which is January 1, 2015.

Since the credible evidence of record supports the Marketplace's January 8, 2015 preliminary determination that you and your wife are eligible for Medicaid beginning January 1, 2015, the preliminary determination and the corresponding January 9, 2015 notice of eligibility redetermination are **AFFIRMED**.

An enrollee must be allowed to terminate their coverage with a qualified health plan if they provide appropriate notice to the Marketplace or to their health plan.

The record reflects that you did not request to terminate your health insurance coverage through the Marketplace until January 8, 2015. The January 9, 2015 Cancellation Notice from the Marketplace states that you requested cancellation of your insurance provider and your request had been processed. You testified that your request had been processed and you had already paid your January premium amount. You would have had to provide notice at least 14 days before your requested termination date of December 31, 2015 became effective which would have meant providing notice by December 17, 2015 to the Marketplace. Therefore, the Marketplace properly terminated your Total Independence Bronze level plan with Health Republic of New York effective January 31, 2015, which is the last day of the month following your notice to cancel coverage.

You may request that Health Republic agree to effectuate an earlier termination date than January 31, 2015 at their discretion based upon this decision. However, Health Care Republic would have to agree to provide you an earlier termination date.

The Marketplace's January 9, 2015 disenrollment notice is **AFFIRMED**.

## **Decision**

The Marketplace's preliminary determination and the corresponding January 9, 2015 notice of eligibility redetermination are **AFFIRMED**.

The Marketplace's January 9, 2015 disenrollment notice is **AFFIRMED**.

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).



**Effective Date of this Decision:** August 14, 2015

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

You and your wife's eligibility for Medicaid beginning January 1, 2015 continues in effect.

The date of disenrollment, or cancellation, of your insurance with Total Independence Bronze level plan through Health Republic of New York is effective January 31, 2015. You may request that Health Republic agree to effectuate an earlier termination date of December 31, 2014 at their discretion based upon this decision. However, Health Republic would have to agree to provide you an earlier termination date.

## **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's preliminary determination and the corresponding January 9, 2015 notice of eligibility redetermination are **AFFIRMED**.

The Marketplace's January 9, 2015 disenrollment notice is **AFFIRMED**.

You and your wife's eligibility for Medicaid beginning January 1, 2015 continues in effect.

The date of disenrollment, or cancellation, of your insurance with Total Independence Bronze level plan through Health Republic of New York is effective January 31, 2015. You may request that Health Republic agree to effectuate an earlier termination date of December 31, 2014 at their discretion based upon this decision. However, Health Republic would have to agree to provide you an earlier termination date.

## **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:**

