



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

Notice of Decision

Decision September 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002007

[REDACTED]

Dear [REDACTED],

On June 11, 2015, your attorney appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 27, 2015 disenrollment notice and March 6, 2015 eligibility determination.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: September 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002007

[REDACTED]

Issue

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

Did the Marketplace properly disenroll you from your Medicaid Managed Care plan effective February 28, 2015?

Procedural History

On March 29, 2014, the Marketplace issued a notice stating that, effective March 1, 2014, you were eligible for Medicaid coverage for emergency medical care. According to the notice, you were eligible only for emergency Medicaid "because you are not a citizen, qualified alien or permanently residing in the United States under color of law (PRUCOL)."

You applied for health insurance through the Marketplace on December 31, 2014. The application stated that you were a United States citizen with an expected yearly income of \$4,911.20.

On January 1, 2015, the Marketplace issued a notice of eligibility determination that stated you were conditionally eligible for Medicaid, effective December 1, 2014. It directed you to provide documentation to confirm your citizenship status before April 2, 2015.

On January 8, 2015, the Marketplace issued a renewal notice stating that the Marketplace did not have enough information from state and federal data sources to determine your eligibility for financial assistance during 2015. It

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indicated that if you did not update your account by February 15, 2015 your financial assistance might end.

Your account was updated on February 25, 2015. On February 26, 2015, the Marketplace issued a notice stating that the income information did not match the state and federal data sources and directed you to submit income documentation by March 15, 2015.

On February 27, 2015, the Marketplace issued a disenrollment notice, stating that your coverage under your Medicaid managed care plan would end effective February 28, 2015.

On March 6, 2015, the Marketplace issued a notice of eligibility determination, stating that you were eligible for Medicaid coverage for the treatment of emergency medical conditions only, effective March 1, 2015.

On March 10, 2015, the Marketplace received your request for an appeal of your disenrollment from Medicaid Managed Care.

On March 19, 2015, the Marketplace issued a notice confirming your enrollment in Medicaid, effective March 1, 2015, but only for the treatment of emergency medical conditions.

On April 14, 2015, the Marketplace issued a notice stating that an eligibility specialist at the Marketplace had reexamined your application and that you were eligible for Medicaid, effective March 1, 2015.

On May 13, 2015, another application was filed on your behalf, and in response the Marketplace issued a notice of eligibility determination on May 14, 2015 stating that you were conditionally eligible for Medicaid, and directing you to provide proof of your immigration status by August 11, 2015.

On May 14, 2015, the Marketplace also issued a confirmation that you had been enrolled in a Medicaid effective May 1, 2015, and that you had been enrolled in a Medicaid Managed Care plan effective March 1, 2015. You were again directed to provide documentation of your immigration status by August 11, 2015.

On June 11, 2015, your attorney 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:

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- 1) Effective March 1, 2014 you were eligible for emergency Medicaid coverage through the Marketplace. You were eligible for only emergency Medicaid because the Marketplace could not confirm that you were a United States citizen, qualified citizen, or permanently residing in the United States under color of law (PRUCOL).
- 2) On December 31, 2014 you submitted an application in which you stated that you were a United States citizen with an expected yearly income of \$4,911.20.
- 3) On January 1, 2015, the Marketplace issued a notice of eligibility determination stating that you were conditionally eligible for Medicaid effective December 1, 2014. It told you to provide proof of your citizenship/immigration status by April 2, 2015.
- 4) On January 8, 2015 the Marketplace issued a renewal notice indicating that it could not get enough information from state and federal data sources to determine if you could get help paying for your insurance during 2015. You were directed to update your account by February 15, 2015 and advised that if you did not do so your financial assistance might end.
- 5) According to your enrollment history in the Marketplace, you were enrolled in a Medicaid managed care plan effective February 1, 2015.
- 6) On February 25, 2015, your Marketplace application was modified three times.
- 7) On February 26, 2015, the Marketplace issued a notice stating that the income information you provided did not match information obtained from state and federal data sources. It said: "In order for your eligibility to be determined, you must submit income documentation for your household by March 15, 2015 to confirm the information you provided in your application is accurate."
- 8) On February 27, 2015, the Marketplace issued a notice stating that your Medicaid Managed Care plan coverage would end effective February 28, 2015.
- 9) On March 3, 2015, two documents were uploaded to your account. A letter from your employer, [REDACTED], addressed the issue of income. It explained that, due to weather conditions, you had not worked since December 29, 2014. A letter from attorney [REDACTED] explained your immigration status. The information in that letter confirmed that you were in immigration proceedings that were nearing resolution.

- 10) In correspondence dated March 5, 2015 and uploaded March 11, 2015, your authorized representative appealed the February 28, 2015 disenrollment from Medicaid Managed Care on grounds that the February 27, 2015 disenrollment notice was dated less than 10 days from the effective date of disenrollment.
- 11) On March 5, 2015, an application was submitted on your account. The Marketplace determined eligibility on that application and issued March 6, 2015 notices stating that you were eligible for emergency Medicaid as of March 1, 2015.
- 12) On April 13, 2015, the Marketplace redetermined your eligibility on the basis of the March 5, 2015 application. On April 14, 2015 it issued a notice stating that you were eligible for Medicaid (not limited to emergency Medicaid) effective as of March 1, 2015.
- 13) You were reenrolled into your Medicaid Managed Care plan effective March 1, 2015. This information began to appear in notices issued on and after May 14, 2015.
- 14) On May 13, 2015, your application was resubmitted. The Marketplace responded with a May 14, 2015 notice stating that you were conditionally eligible for Medicaid and directing you to produce documentation of your immigration status.
- 15) On May 18, 2015, you uploaded a copy of an October 24, 2012 Notice of Custody Determination from the U.S. Department of Homeland Security. It confirms that you were released pending immigration proceedings. You also uploaded copies of a notice of hearing before the Immigration Court, dated June 26, 2013, scheduling a hearing for September 5, 2014, as well as a copy of a notice of hearing scheduled for June 26, 2015.

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

Applicable Law and Regulations

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available

to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace is required to give individuals “timely and adequate notice of [a] proposed action to terminate, discontinue, or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid” (42 CFR § 435.919(a)).

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the nonfinancial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance.

The term “PRUCOL” stands for Permanent Residence Under Color of Law, and a PRUCOL alien is a person who is residing in the United States with the knowledge and permission or acquiescence of the federal immigration agency and whose departure from the United States such agency does not contemplate enforcing; such a person is eligible for full Medicaid benefits in New York (18 NYCRR § 360-3.2(j)(1)(ii)).

The New York State Department of Health Transmittal 08 OHIP/INF-4 provides that it is the Department’s policy, as stated in 04 OMM/ADM-7 and 07 OHIP/INF-2, that the alien is permanently residing in the United States under color of law (PRUCOL) during the period of time that the federal agency is determining whether to approve the application by granting the requested immigration status or other relief. Local departments of social services should continue to follow the procedures described in these directives when the alien, or the alien’s representative, presents documentation that an application has been submitted to the federal immigration agency on the agency’s forms. In particular, the district should attempt to verify whether the application remains pending or whether the federal immigration agency has adjudicated the application by granting or denying the requested status.

The New York State Department of Health Transmittal 08 OHIP/INF-4 further provides that the Medicaid eligibility worker must determine whether the alien is PRUCOL based upon the documentation that the alien, or the alien’s representative, presents. An alien who establishes that he or she is PRUCOL is eligible for State Medicaid and FHPlus benefits if the alien meets the program’s financial and other eligibility requirements.

The New York State Department of Health Transmittal 04 OMM/ADM-7 provides, in relevant part, that as a general rule, U.S. citizens, nationals, Native Americans, qualified immigrants and PRUCOL applicants for Medicaid must provide appropriate documentation of their citizenship or satisfactory immigration status. In addition to the standard Medicaid eligibility questions regarding income,

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resources, family composition and living arrangements, the Medicaid program must ask an immigrant to verify his or her satisfactory immigration status.

Legal Analysis

In the notice of eligibility determination issued on January 1, 2015, you were conditionally found eligible for Medicaid benefits effective December 1, 2014. You were given until April 2, 2015 to confirm your citizenship status.

The record contains an October 24, 2012 Notice of Custody Determination, issued by the U.S. Department of Homeland Security, indicating that you were released on an Order of Recognizance. According to notes in your account, this document has been accepted by the Marketplace as evidence of your PRUCOL status.

On February 25, 2015 your account was updated, but the Marketplace could not reconcile information from state and federal data sources with the income information provided in your application. It directed you to submit income documentation by March 15, 2015.

On February 27, 2015, the marketplace issued a disenrollment notice for your Medicare managed care plan with UnitedHealthcare of New York. The notice states that your coverage ends February 28, 2015. This date precedes the March 15, 2015 deadline to produce income documentation and the April 2, 2015 deadline to produce documentation of your citizenship/immigration status. A March 6, 2015 notice states that, effective March 1, 2015, you are eligible only for emergency Medicaid; however, the record does not confirm that during January or February the Marketplace made a decision to terminate or modify your conditional Medicaid eligibility. Nor is there an indication in the record that either you or the plan requested termination at that time. Finally, as your representative contends, the notice told you only one day in advance that your Medicaid managed care plan would end. These points, taken together, show that the disenrollment notice lacks adequate support in the record and must be **RESCINDED**.

On March 5, 2015 a revised application was submitted. The Marketplace processed the application and determined that you were eligible for emergency Medicaid effective March 1, 2015. This decision appears in a notice dated March 6, 2015. However, the Marketplace later reconsidered that application and, on April 14, 2015 issued a notice of eligibility determination stating that you were eligible for Medicaid effective March 1, 2015. That determination is supported by the evidence of record, has not been appealed, and continues in effect. The March 6, 2015 notice is superseded by the April 14, 2015 notice and is **RESCINDED**.

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On April 14, 2015 it issued a notice stating that you were eligible for Medicaid effective as of March 1, 2015. The notice does not request documentation of income or immigration status. On May 14, 2015, the Marketplace issued a notice confirming that you had been reenrolled into your Medicaid Managed Care plan effective March 1, 2015. These notices have not been appealed and continue in effect.

On May 14, 2015, the Marketplace issued a notice stating that you were conditionally eligible for Medicaid and directing you to produce documentation of your immigration status. Although that notice has not been appealed, it is not supported by the record and it is consistent with the valid notice dated April 14, 2015. Therefore, it is MODIFIED to state that you remain eligible for Medicaid and have satisfied the direction to produce evidence of your immigration status.

Decision

The February 27, 2015 disenrollment notice is RESCINDED.

Notices of eligibility determination and enrollment letters dated March 6, 2015 and March 19, 2015 are RESCINDED

The April 14, 2015 notice of eligibility determination stating that you are eligible for Medicaid effective as of March 1, 2015 continues in effect.

The May 14, 2015 notice of eligibility determination is MODIFIED to state that you remain eligible for Medicaid and have satisfied the direction to produce evidence of your immigration status.

The May 14, 2015, notice confirming that you were enrolled in your Medicaid Managed Care plan as of March 1, 2015 continues in effect.

Effective Date of this Decision: September 14, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid (not just on an emergency basis), and you are entitled to remain in your Medicaid managed care plan at this time.

Your Medicaid Managed Care plan coverage did not end on February 28, 2015. It continued in effect without any gap in coverage.

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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 February 27, 2015 disenrollment notice is RESCINDED.

Notices of eligibility determination and enrollment letters dated March 6, 2015 and March 19, 2015 are RESCINDED

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The April 14, 2015 notice of eligibility determination stating that you are eligible for Medicaid effective as of March 1, 2015 continues in effect.

The May 14, 2015 notice of eligibility determination is MODIFIED to state that you remain eligible for Medicaid and have satisfied the direction to produce evidence of your immigration status.

The May 14, 2015 notice confirming that you were enrolled in your Medicaid managed care plan as of March 1, 2015 continues in effect.

You are eligible for Medicaid (not just on an emergency basis), and you are entitled to remain in your Medicaid Managed Care plan at this time.

Your Medicaid managed care plan coverage did not end on February 28, 2015. It continued in effect without any gap in coverage.

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]