



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002049

[REDACTED]

Dear [REDACTED],

On May 4, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 notice of 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 Code of Federal Regulation (CFR) 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Is the Marketplace's having disenrolled you from your health insurance coverage due to non-payment of premiums for January 2015 an appealable issue?

Did the Marketplace properly determine that you were not eligible for Medicaid effective January 1, 2015?

Procedural History

On September 27, 2014, the Marketplace issued a notice of eligibility determination stating that you were temporarily eligible to receive an advance premium tax credit of up to \$38.00 per month.

On November 6, 2014, the Marketplace issued a notice stating that it was time for you to renew your health insurance coverage for 2015. That notice stated that based on federal and state data sources, a decision could not be made whether you would qualify for financial help in paying for your health coverage for 2015. It also stated that you must update the information on your NY State of Health account by December 15, 2014 and that if you missed the deadline, the financial assistance you were receiving might end.

On December 22, 2014, the Marketplace issued a notice of eligibility redetermination stating that you were not eligible for Medicaid because the household income you provided of \$42,024.32 was over the allowable income limit of \$16,105.00. The notice further stated that you were not eligible to receive

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advance premium tax credits to help pay for the cost of your insurance because “[r]enewal period and income date is not available.”

On December 23, 2014, the Marketplace issued a notice confirming your enrollment with SilverPlus-S2, NS, INN, Dep25, Pediatric and Adult Dental, Adult and Pediatric Vision with a premium responsibility of \$398.82 per month.

On January 26, 2015, the Marketplace issued a cancellation notice, which stated that your insurance with SilverPlus-S2, NS, INN, Dep25, Pediatric and Adult Dental, Adult and Pediatric Vision is cancelled effective January 1, 2015 because a premium payment has not been received.

On March 14, 2015, you spoke with the Marketplace’s Account Review Unit and appealed the cancellation notice insofar as it terminated your insurance coverage for non-payment of your premium responsibility. You further appealed your eligibility determination insofar as it did not determine you eligible for Medicaid.

On May 4, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during the hearing and left closed at the end of the hearing.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are the only person in your tax household and that you expect to file your 2015 tax return as Single.
- 2) According to the December 21, 2014 application for health insurance, you attested to an expected household income of \$42,024.32. You testified that you earn \$26.00 per hour and work approximately 35 hours per week; however, your hours fluctuate weekly.
- 3) The record reflects that you reside in Kings County, New York.
- 4) You testified that you did not receive the renewal notice issued by the Marketplace because you have been experiencing issues with your mail system. You further testified that your mail has been stolen numerous times for over one year. You testified that you filed a police report and reported the theft to your post office. You further testified that, as of January 2015, this issue had been rectified.

- 5) You testified that you did not update your Marketplace account because you were not aware that you needed to renew your insurance coverage for the upcoming year.
- 6) You testified that the first notice you received from the Marketplace was the January 26, 2015 notice of insurance coverage cancellation.
- 7) You further testified that you never received an invoice for the January 2015 premium.

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

Applicable Law and Regulations

Appealable Issues

Individual applicants and enrollees have the right to appeal –

1. An eligibility determination, including; an initial determination or redetermination of eligibility, the amount of advance premium tax credits (APTC) and level of cost-sharing reductions (CSR);
2. Eligibility for tax penalty exemptions;
3. A failure of the Exchange to provide timely notice of an eligibility determination; and
4. A denial of a request to vacate dismissal made by the Marketplace's Appeals Unit

(45 CFR § 155.505(b)).

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If

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a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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 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 still the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

Legal Analysis

The first issue under appeal is your disenrollment from your health insurance coverage due to purported non-payment of premiums for January 2015. This issue is not one that the Marketplace's Appeals Unit is authorized to address. Therefore, it cannot be reviewed and is dismissed as invalid.

The second issue is whether the Marketplace properly determined that you were not eligible for Medicaid coverage as of December 22, 2014.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to the renewal notice, the Marketplace must issue an eligibility determination for the upcoming year based on the projected eligibility contained in the renewal notice.

On November 6, 2014, the Marketplace issued an annual renewal notice, which indicated that it could not make a redetermination using the available "federal

and state data sources” and it directed you to update your account by December 15, 2014 in order for your eligibility to be redetermined.

The record reflects that the information in your Marketplace account was not updated by the December 15, 2014 deadline. Therefore, the Marketplace issued a determination based on the information contained in your account as of December 21, 2014. According to the December 21, 2014 application, your available attested expected household income was \$42,024.32 for the 2015 tax year.

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 (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size.

On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. An annual household income of \$42,024.82 is 360.11% of the 2014 FPL; therefore, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the December 22, 2014 notice of eligibility determination properly stated that, based on the information available in your Marketplace account, you were ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

Your request to appeal the disenrollment from your health insurance plan due to non-payment of premiums for January 2015 is not valid and is dismissed.

The December 22, 2014 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

The Marketplace’s Appeals Unit is not authorized to address the disenrollment from your health insurance plan due to non-payment of premiums for January 2015.

You remain ineligible for Medicaid, pending a change in your income.

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:
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- By fax: 1-855-900-5557

Summary

Your request to appeal the disenrollment from your health insurance plan due to non-payment of premiums for January 2015 is not valid and is dismissed.

The Marketplace's Appeals Unit is not authorized to address the disenrollment from your health insurance plan due to non-payment of premiums for January 2015.

The December 22, 2014 notice of eligibility determination is AFFIRMED.

You remain ineligible for Medicaid, pending a change in your income.

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:

