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: AP000000002168

Dear [redacted],

On May 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 26, 2015 denial of Medicaid premium assistance.

The attached 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 letter.

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
Albany, NY 12211

Decision

Decision Date: August 14, 2015

NY State of Health Number:
Appeal Identification Number: AP000000002168

Issue

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

> Did the Marketplace properly determine that the Medicaid program should not provide premium assistance for your Third Party Health Insurance through your employer?

Procedural History

On December 1, 2014, the Marketplace issued a notice of eligibility redetermination based on your November 25, 2014 application. According to the notice, you, your spouse and your three children were determined eligible for Medicaid effective November 1, 2014. Your family's eligibility was based on your reported household income of $31,445.60 for a five person household, which was below the allowable income limit for Medicaid for all family members.

The notice also informed you that because your family had comprehensive third party health insurance, you cannot enroll in Medicaid Managed Care and, to obtain additional benefits and services which are not covered by your health insurance plan, you must use a Medicaid participating provider and present your New York State Benefit Identification card at the time of service.

The notice further informed you that the Medicaid program may be able to pay your health insurance premiums if it is deemed to be cost effective. It provided a telephone

number for you to contact the Marketplace to determine if Medicaid can pay your health insurance premiums if you were interested.

On February 26, 2015, the Third Party Liability Unit of the Office of Health Insurance Programs, NYS Department of Health, issued a notice that it had determined it is not cost effective for New York State of Health to pay for health insurance premiums for you, your spouse, and your three children. Thee notice informed you that, if you are currently enrolled in a health insurance plan, you remain liable for payment of your health insurance premiums. It also stated that if there are any changes to your insurance such as carrier, premium, or loss of insurance, you must report these changes to New York State of Health immediately.

On March 24, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the denial of Medicaid premium assistance payments through the Medicaid Premium Assistance Program.

Your telephone hearing scheduled for April 23, 2015 was adjourned and rescheduled to May 18, 2015, to allow you the opportunity to review the Third Party Liability Unit's submission for hearing (Department of Health Exhibit A).

On May 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed at that hearing and held open for up to fifteen days to afford you the opportunity to submit proof of income.

On June 1, 2015, the Appeals Unit received a fifteen (15) page fax from you. It consisted of (1) A copy of Page 1 of Form 1040A, U.S. Individual Income Tax Return for 2014; (2) Two pay statements for four consecutive weeks from April 19, 2015 to May 16, 2015; (3) A copy of the Official Record of your spouse's Unemployment Insurance Benefits Payment History; and (4) A copy of a letter, dated May 28, 2015, from your eldest child regarding her seasonal work during the summer of 2015. This fifteen (15) page fax was made part of the record as "Appellant's Exhibit Z."

Since the requested documents were received on June 1, 2015, the record was closed that same day.

Findings of Fact

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

1) You testified that you have had third party health insurance through your employer since 2011 and came to the Marketplace because your health insurance through your employer was too costly.

2) According to your pay statements and your testimony at hearing, your employer deducts $19.00 for dental insurance each paycheck and $206.00 for health

insurance each paycheck, which totals $225.00 every two weeks (Appellant's Exhibit Z. pp. 2 – 5).

3) You testified that you were told to continue your third party health insurance until an eligibility determination was made and now cannot cancel that coverage even though your household income is now less than when your family was determined eligible for Medicaid and the cost of insurance is still too high.

4) You testified that you received the February 26, 2015 denial notice from the Third Party Liability Unit and are appealing that denial because your health insurance premiums are not affordable.

5) The Third Party Liability Unit of the Office of Health Insurance Programs, NYS Department of Health, prepared and submitted a packet of information, dated April 21, 2015, in lieu of appearing for the hearing. It has been made part of the record as "DOH Exhibit A."

6) The "Summary" page of DOH Exhibit A states in relevant part that, "[t]he appellant's request for Medicaid payment of health insurance premiums has been rejected because such payment has been deemed not cost effective pursuant to the Department's regulations and administrative guidance…High deductible plans [over $2,600 for a family deductible] are never considered cost effective per Section 1906A of Social Security Law" (DOH Exhibit A, p. 2).

7) The "Notes" page of DOH Exhibit A states in relevant part that, "[p]er ████ at carrier, coverage is still active with most recent effective date of 1/1/2015 for all members. There is a $1000 individual deductible and a $3000 family deductible…02/25/2015."

8) You do not understand why it would not be cost effective on the basis of your deductible and prefer to have your family's coverage through Medicaid because the cost of your current plan plus the family deducible of $3,000.00 per year is unaffordable.

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

Applicable Law and Regulations

The State or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (Social Security Act § 1902(a)(25); 42 USC. § 1396(a)). Third parties include health insurers, self-insured

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plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (*id.*).

When a Medicaid recipient has health insurance in force, is enrolled in a group health insurance plan, or a group health plan covering care and other medical benefits, payment or part-payment of the premium, co-insurance, any deductible amounts and other cost-sharing obligations for such insurance may also be made when deemed cost-effective (NY Soc. Serv. Law § 367-a(1)(b)).

In New York, payment or part-payment of the premiums for personal health insurance is made by the Medicaid program to the insurance carrier or to another appropriate third party when authorized under the Medicaid program (18 NYCRR § 360-7.5(g), (a)(2)). The Medicaid assistance program will pay or partly pay premiums for Medicaid recipients if it is determined that full or partial payment would reduce the expense of providing Medicaid services (18 NYCRR §360-7.5(g)(3)).

The cost-benefit analysis for cost-effective premiums that is to be relied upon by NY State of Health is performed by the Department of Health's Third Party Resource Unit (13 ADM-03 [Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010], Section III, Subsection I). When applicable, the unit performs this analysis using a programmed calculator known as HIPP calculator (GIS 13 MA/012 (May 1, 2013)).

High deductible plans greater than $2,600.00 are never considered cost effective and no cost per Section 1906A of Social Security Law and, therefore, no cost-benefit analysis for cost-effectiveness is performed.

If the policy is determined not to be cost-effective, the Medicaid recipient is then under no obligation to enroll or maintain enrollment in that plan (87 ADM-40 [Third Party Resources (TPR) Detection and Utilization], Section IV, Subsection A(2)(f)(1)(c)).

The determinations of cost effectiveness are subject to appeal (13 ADM-03, Section III, Subsection J).

Legal Analysis

The matter at issue is whether the Medicaid program should provide payment or part payment of premium assistance for the health insurance that you and your family have coverage through.

You and your family were determined Medicaid eligible effective November 1, 2014, and you have continued your health insurance coverage through your employer.

On December 1, 2014, the Marketplace advised you in your eligibility determination notice that the Medicaid program might be able to pay your family's health insurance premiums if it is determined to be cost effective for Medicaid to do so.

The Medicaid assistance program will pay or partly pay premiums for a Medicaid recipient's private health insurance if it is determined that full or partial payment of the premium would reduce the expense of providing Medicaid services.

You provided documentation to the Marketplace showing that your monthly premium for 2015 costs $225.00 every two weeks, which is $5,850.00 for twelve months plus a $3,000.00 maximum deductible for the family. According to Social Service Law, a HIPP calculation is not conducted when the yearly deductible is greater than $2,600.00, as in your case.

Since it would not be cost effective for Medicaid to help pay your health care premiums, your request for Medicaid to pay or partially pay your monthly premiums was properly denied.

Decision

The February 26, 2015 notice denying Medicaid premium assistance as issued by the Third Party Liability Unit of the Office of Health Insurance Programs, NYS Department of Health, remains in effect.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

You and your family remain eligible for Medicaid as of November 1, 2014.

You remain ineligible to enroll in a Medicaid Managed Care plan while covered through a Third Party Health Insurance plan.

You are not obligated to maintain your family's health coverage through your employer.

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 26, 2015 notice denying Medicaid premium assistance as issued by the Third Party Liability Unit of the Office of Health Insurance Programs, NYS Department of Health, remains in effect.

You and your family remain eligible for Medicaid as of November 1, 2014.

You remain ineligible to enroll in a Medicaid Managed Care plan while covered through a Third Party Health Insurance plan.

You are not obligated to maintain your family's health coverage through your employer.

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:

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