



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

Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002210

[REDACTED]

Dear [REDACTED],

On April 29, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 5, 2015 denial of Medicaid premium assistance.

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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NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine that it is not cost-effective for the Medicaid program to provide premium assistance for your son's Third Party Health Insurance under Excellus BlueCross BlueShield?

Procedural History

The Marketplace received multiple applications for health insurance on March 2, 2015. The first two were applications that declined financial assistance, and the Marketplace prepared preliminary determinations in response to these applications stating that you and your son were eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace.

The third and fourth applications requested financial assistance. In response to each, the Marketplace prepared preliminary determinations stating that you were not eligible for financial assistance and that your son was eligible for Medicaid.

On March 3, 2015 you submitted a modified application for financial assistance to obtain health insurance. In response, the Marketplace again prepared a preliminary determination stating that you were not eligible for financial assistance and that your son was eligible for Medicaid.

On March 3 and March 4, 2015, the Marketplace issued notices of eligibility determination stating, in pertinent part, that your son was eligible for Medicaid effective March 1, 2015. The notice further stated, with regard to your son's

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coverage, that “[y]ou indicated that you are enrolled in Third Party Health Insurance. The Medicaid program may be able to pay your health insurance premiums if it is determined to be cost effective.”

On March 5, 2015, the Marketplace issued a notice stating that it was not cost effective for NY State of Health to pay for your son’s health insurance premiums. The notice further stated that if your son was currently enrolled in this health insurance plan, you remained responsible for payment of your health insurance premium bills.

On March 27, 2015, you spoke with the Marketplace’s Account Review Unit and appealed that determination insofar as it denied your request for premium assistance.

On April 29, 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.

On May 1, 2015 you changed your mailing address to one in [REDACTED].

On May 26, 2015, the Marketplace issued an explanation to the Hearing Officer, explaining the basis of the denial for your request for premium reimbursement. Part of the explanation is not currently legible in your account. No copy of this document was sent to you, either at your old or your new address.

Findings of Fact

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

- 1) The record reflects that you currently reside with your son.
- 2) You testified that, at the time of your March 2, 2015 application, you and your son resided in Tioga County, New York. You further testified that you and your son are moving to [REDACTED] on or about May 2015.
- 3) Your application indicated that you will be filing your federal tax return as a Head of Household, and claim one dependent.
- 4) You testified that you are not seeking health insurance through the Marketplace. You further testified that you applied for health insurance for your son seeking premium assistance through the Medicaid Program.
- 5) The record reflects that your son was determined eligible for Medicaid effective March 1, 2015.

- 6) You testified, and provided evidence, that you and your son are currently enrolled in Excellus BlueCross Blue Shield (Appellant's Exhibit 1). You further testified and provided evidence that you have a premium responsibility of \$87.42 every two weeks, or approximately \$2,272.92 annually.
- 7) At the April 29, 2015 hearing, documentation and records used by the Third Party Liability Unit to make a determination regarding whether it is cost effective for the Medicaid Program to pay for your son's health insurance premiums were not available in your Marketplace account.
- 8) A notice dated March 5, 2015 determining that it is not cost effective for NY State of Health to pay for your son's health insurance premium was uploaded to your Marketplace account on May 4, 2015. However, you did not testify that you had not received this notice, and you filed an appeal with regard to its contents on March 27, 2015.
- 9) An evidence packet issued by the Third Party Liability Unit regarding your denial of premium assistance through the Medicaid Program was uploaded to your Marketplace account on May 26, 2015. This evidence indicated the Date of Hearing as May 26, 2015.
- 10) You are requesting premium assistance through the Medicaid Program retroactive to March 1, 2015.

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 that is at or below 138% of the 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 federal poverty level (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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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 March 19, 2014).

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

In New York, payment or partial-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). The unit performs this analysis using a programmed calculator known as HIPP calculator (GIS 13 MA/012 (May 1, 2013)).

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).

Medicaid recipients/appellants must be given an opportunity to examine at a reasonable time before and during the scheduled hearing the content of her case file and all documents and records to be used by the Marketplace (42 CFR § 431.242).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their

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Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage,” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (MAGI) (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Individuals covered under this policy of “continuous coverage” will remain enrolled in their Medicaid plan with only limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The matter at issue is whether the Medicaid program should provide premium assistance for the health insurance that your son received under Excellus BlueCross BlueShield.

Your son was Medicaid eligible effective March 1, 2015 and you have continued his health insurance coverage with Excellus BlueCross BlueShield.

On March 3 and March 4, 2015, the Marketplace advised you that the Medicaid program might be able to pay your son’s health insurance premiums if it was 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 personal 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 costs \$87.42 per bi-weekly pay period, which is approximately \$2,272.92 for 12 months.

However, at the time of the hearing, the evidence packet issued by the Third Party Liability Unit detailing the rationale for your premium assistance denial was not available for review. This documentation was not uploaded to your Marketplace account for review until May 26, 2015, a month after your scheduled hearing.

Medicaid recipient appellants must be given an opportunity to examine at a reasonable time before and during the hearing the content of their case file, and all documents and records to be used by the State or local agency.

Since you were not given an opportunity to review the documents and records to be used by the Marketplace's Appeals Unit prior to, or during the hearing, and that further this documentation is in significant part illegible, it is found that the Marketplace has not produced sufficient credible evidence to justify denying your request for Medicaid premium reimbursement.

However, it is also determined that you testified that you and your son moved out of New York State in May 2015 and that you changed your mailing address on May 1, 2015. You failed to change your residence address. By moving out of New York State, you ended your son's eligibility for Medicaid issued through New York State, and consequentially for the Medicaid premium reimbursement program.

Therefore, the March 5, 2015 notice is MODIFIED to reflect that you will be reimbursed for the cost of your son's health insurance for a period beginning the first date of your eligibility for reimbursement and ending no later than May 1, 2015, the date your son moved out of New York State and lost eligibility for Medicaid.

Your case is returned to the Marketplace to effect this change.

Decision

The March 5, 2015 notice is MODIFIED to reflect that you will be reimbursed for the cost of your son's health insurance for a period beginning the first date of your eligibility for reimbursement and ending no later than May 1, 2015, the date your son moved out of New York State and lost eligibility for Medicaid.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

Your case is returned to the Marketplace to determine the amount of reimbursement that you will receive.

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

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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 March 5, 2015 notice is MODIFIED to reflect that you will be reimbursed for the cost of your son's health insurance for a period beginning the first date of your eligibility for reimbursement and ending no later than May 1, 2015, the date your son moved out of New York State and lost eligibility for Medicaid.

Your case is returned to the Marketplace to determine the amount of reimbursement that you will receive.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

