



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

Notice of Decision

Decision Date: April 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002283

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 7, 2015, you appeared by telephone at an expedited hearing on your appeal of NY State of Health Marketplace's March 18, 2015 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).

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).

THIS PAGE INTENTIONALLY LEFT BLANK



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

Decision

Decision Date: April 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002283

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that your and your spouse's coverage under a Medicaid Managed Care plan ended as of March 31, 2015?

Procedural History

The Marketplace received your application for health insurance on April 28, 2014. That same day, the Marketplace determined that you and your spouse were eligible for Medicaid for one year based on nonfinancial criteria and an expected annual household income of \$6,255.96. You were both given Medicaid fee for service beginning April 1, 2014 and then Medicaid Managed Care (MMC) coverage beginning June 1, 2014.

On March 18, 2015, the Marketplace sent you a disenrollment notice that said your coverage would end effective March 31, 2015.

On April 3, 2015, your Marketplace account was updated and the Marketplace made a preliminary redetermination that you and your spouse were eligible to share in advance premium tax credits of up to \$476.00 monthly and for cost-sharing reductions effective May 1, 2015.

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).

That same day, you appealed the Marketplace's preliminary redetermination insofar as it would result in a gap in coverage and, therefore, in your ongoing medical treatment.

On April 5, 2015, the Marketplace issued a notice of eligibility redetermination. It states that you and your spouse are eligible to share an advance premium tax credit of \$476.00 per month; eligible for cost-sharing reductions, if you enroll in a silver-level qualified health plan; and eligible for a special enrollment period.

On April 6, 2015, you uploaded a letter from your treating physician, in which he identified your chronic medical problem and explained that a lapse in your ongoing treatment posed a high risk for regression in improvement and for long-term complications (Appellant's Exhibit A).

On April 7, 2015, the Marketplace expedited your appeal based on the letter from your treating physician.

On April 7, 2015, a Hearing Officer from the Marketplace's Appeals Unit contacted you to conduct a formal hearing. Through sworn testimony, you agreed to waive formal notice of the hearing so that it could be conducted on an expedited basis. The record was developed during the hearing and was held open for up to fifteen days to allow you the opportunity to submit proof of your 2015 Social Security Disability benefits and a copy of your MMC plan identification card. The record was to be closed on April 22, 2015 or upon receipt of these documents, whichever occurred earlier.

On April 7, 2015, the Marketplace's Appeals Unit received a three page fax from you. It consisted of: (1) A cover page; (2) A copy of the benefits page regarding your 2015 Social Security benefits; (3) A copy of your insurance identification card; and (4) A copy of your driver's license. This three-page fax was made part of the record as "Appellant's Exhibit B."

Since you provided the requested documents, the record was closed the same day.

Findings of Fact

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

- 1) On March 18, 2015, the Marketplace sent you a disenrollment notice that said your Medicaid Managed Care (MMC) coverage would end effective March 31, 2015.

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).

- 2) You testified that you applied for Medicaid through your Local Department of Social Services (LDSS) during March 2015, and were told at that time that the Medicaid computer said that your existing coverage would continue until May 31, 2015.
- 3) You testified that you relied on the LDSS information that your coverage would continue until May 31, 2015 and thought you would not need more health insurance until it ended.
- 4) You testified that on April 1, 2015, when you visited a medical provider for ongoing treatment, you were told by staff that your Medicaid coverage had ended on March 31, 2015.
- 5) Your testimony and physician's letter confirm that, due to your chronic medical problem, an interruption in your ongoing care would pose a high risk for regression in improvement and for long-term complications.
- 6) You appealed the March 31, 2015 termination of your Medicaid coverage, your treating physician provided documentation of your medical condition, and your appeal was accepted for expedited processing.
- 7) You did not appeal the April 5, 2015 notice of eligibility determination and understand that, according to that determination, you are ineligible for Medicaid but that you and your spouse are eligible to share an advance premium tax credit of up to \$476.00 monthly and, if you enroll in a silver-level qualified health plan through the Marketplace, for cost-sharing reductions.

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

Applicable Law and Regulations

“The [Marketplace] appeals entity must establish and maintain an expedited appeals process for an appellant to request an expedited process where there is an immediate need for health services because a standard appeal could jeopardize the appellant's life, health, or ability to attain, maintain, or regain maximum function” (45 CFR § 155.540(a)).

A Medicaid recipient is entitled to receive timely and adequate notice when the Marketplace proposes to “discontinue, suspend or reduce ... medical assistance authorization or services” (18 NYCRR § 358-3.3).

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).

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)).

There are two primary places to apply for Medicaid in New York State, the New York State of Health Marketplace and your Local Department of Social Services (LDSS) or, if you live in one of New York City's five boroughs, the New York City Human Resources Administration (HRA).

Under New York's Social Services Law, a person who is found eligible for Medicaid based on their household's MAGI but loses that eligibility "for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number" keeps their Medicaid for twelve months, "provided that federal financial participation in the costs of such assistance is available" (Soc. Serv. Law § 366(4)(c)). This provision is referred to as "continuous coverage" and the twelve-month period of continuous coverage is based on the date of Medicaid eligibility.

Legal Analysis

The only matter at issue is whether you and your wife were properly disenrolled from Medicaid effective March 31, 2014.

Since you and your wife were determined eligible for Medicaid effective April 1, 2014, you and your wife were eligible for continuous coverage for twelve consecutive months. Medicaid provided for twelve consecutive months effective April 1, 2014 would properly end on March 31, 2015.

When the Marketplace reevaluated your eligibility for 2015 renewal of your coverage, it determined that you and your spouse were eligible for an advance premium tax credit and cost-sharing reductions. This eligibility, set out in the April 5, 2015 notice, has not been appealed and is not under review.

Currently, Medicaid applications are accepted by the Marketplace and by the Local Department of Social Services (LDSS). When the Marketplace advised you that you and your spouse would become eligible for an advance premium tax credit and that your Marketplace Medicaid would end, you consulted your LDSS

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).

to request Medicaid coverage. The LDSS advised you that your Medicaid coverage would end on May 31, 2015, and not March 31, 2015.

Although the March 18, 2015 disenrollment notice met the requirements of 18 NYCRR § 358-3.3, you received credible, contradictory information that your Medicaid coverage would end on May 31, 2015.

You credibly testified that you did not want a break in your insurance coverage because you have a serious medical condition that requires uninterrupted treatment. Correspondence from your treating physician identifies your medical problems and confirms that a lapse in treatment poses a high risk for regression in improvement and for long-term complications. This documentation was sufficient to support your request for an expedited appeal, because it confirmed that you had an immediate need for health services and that a delay “could jeopardize the appellant's life, health, or ability to attain, maintain, or regain maximum function.”

It was not unreasonable for you to conclude that Medicaid coverage continued until May 31, 2015. Given your documented medical condition, it appears that interrupting your treatment would have been reckless, and there is no evidence to support a finding that you expected this to occur. Therefore, under the facts of this particular case, it is appropriate for your Medicaid coverage to continue until May 31, 2015.

Please note that, due to the automated nature of notices issued by the Marketplace, you may soon receive, or have received, notices related to Medicaid continuation after March 31, 2015. To the extent that any of these notices suggest that your Medicaid coverage continues after June 1, 2015, they are defective and not binding on the Marketplace.

Effective June 1, 2015, you and your spouse are eligible for an advance premium tax credit and, if you enroll in a silver level plan, for cost-sharing reductions, but not for Medicaid continuous coverage.

To enroll in a qualified health plan and have it take effect on June 1, 2015, you must contact the Marketplace and select a plan on or before May 15, 2015.

Decision

The March 18, 2015 disenrollment notice is MODIFIED to state that Medicaid eligibility and Medicaid managed care plan enrollment end on May 31, 2015.

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: April 16, 2015

How this Decision Affects Your Eligibility

Your Medicaid eligibility and Medicaid managed care enrollment end on May 31, 2015.

Effective June 1, 2015, you and your spouse are eligible for an advance premium tax credit and, if you enroll in a silver level plan, for cost-sharing reductions, but not for Medicaid continuous coverage.

To enroll in a qualified health plan and have it take effect on June 1, 2015, you must contact the Marketplace and select a plan on or before May 15, 2015.

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 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).

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 March 18, 2015 disenrollment notice is MODIFIED to state that Medicaid coverage ends May 31, 2015.

Your Medicaid coverage ends on May 31, 2015.

Effective June 1, 2015, you and your spouse are eligible for an advance premium tax credit and, if you enroll in a silver level plan, for cost-sharing reductions, but not for Medicaid continuous coverage.

To enroll in a qualified health plan and have it take effect on June 1, 2015, you must contact the Marketplace and select a plan on or before May 15, 2015.

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]
[REDACTED]