



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: AP000000002447

[REDACTED]

Dear [REDACTED],

On May 15, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 4, 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 notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation (CFR) 45 CFR § 155.545(b).

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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 the Medicaid program should not provide premium assistance for your Third Party Health Insurance under Oxford for the months of March to August 2014 because it was not cost effective?

Procedural History

The Marketplace received your initial application for health insurance on November 6, 2013.

Between November 14, 2013 and March 6, 2014, your application was modified several times.

On March 7, 2014, the Marketplace issued a notice stating that you, your spouse, and your son might be eligible for health insurance through New York State of Health but more income information was needed to make a determination. You were requested to submit income documentation for your household by March 24, 2014 to confirm that the information you provided in your application was accurate.

On April 3, 2014, the Marketplace issued a similar notice stating that you, your spouse, and your son might be eligible for health insurance through New York State of Health but more income information was needed to make a determination. You were requested to submit income documentation for your

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household by April 20, 2014 to confirm that the information you provided in your application was accurate.

On April 2, 2014, business records dated March 6, 2014 illustrating the profits and losses for your company, [REDACTED], between January 1, 2014 and March 6, 2014 were uploaded to your Marketplace account.

On August 7, 2014, the Marketplace issued a notice of eligibility determination stating that you, your spouse, and your youngest child were eligible for Medicaid effective March 1, 2014.

On March 4, 2015, the Marketplace issued a notice that stated: "We have determined that it is not cost effective for New York State of Health to pay for health insurance premiums for the following individuals. [REDACTED] - [REDACTED], [REDACTED], [REDACTED], [REDACTED] - [REDACTED] ... If you are currently enrolled in this health insurance plan, you remain responsible for payment of your health insurance premium bills."

On April 16, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it denied assistance with your Third Party Health Insurance premiums due to cost effectiveness.

On May 15, 2015, you and your spouse had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, [REDACTED], on behalf of the New York Department of Health Third Party Liability Unit, also appeared and provided testimony. The record was developed during the hearing and left open for up to 15 days provide [REDACTED] an opportunity to submit supporting evidence.

On May 15, 2015, the Marketplace's Appeals unit received [REDACTED] supporting evidence, which included e-mail correspondence between [REDACTED] and [REDACTED] [REDACTED]. These documents were collectively marked as Third Party Liability Unit Exhibit 2 and incorporated into the record. The record was closed on May 15, 2015.

Findings of Fact

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

- 1) You currently reside with your spouse and three children in Kings County.
- 2) The record reflects that you, your spouse, and your youngest child are the only individuals seeking health insurance through the Marketplace.

- 3) You testified, and the record reflects, that you began applying for health insurance through the Marketplace in November 2013. You further testified that you submitted all proof of income to the Marketplace in November 2013 but experienced technical issues in uploading these documents directly to your account. You testified that all of your supporting income documentation was uploaded to your Marketplace account by January 2014. You further testified that you submitted income documentation again in April and July 2014.
- 4) On April 2, 2014, business records dated March 6, 2014 illustrating the profits and losses for your company, [REDACTED] between January 1, 2014 and March 6, 2014 were uploaded to your Marketplace account. The record reflects that these records were verified as valid proof of income on August 6, 2014.
- 5) You testified that you provided the requested income documentation in a timely manner but did not receive a timely determination from the Marketplace. You further testified that, to avoid the tax penalty for lack of insurance, you, your spouse, and your child remained enrolled in a health insurance plan outside of the Marketplace while you awaited an eligibility determination. You testified that you, your spouse, and your child were enrolled in Oxford until November 2014.
- 6) You testified, and provided evidence, that the health insurance premiums for your family through Oxford cost \$1,751.25 per month (Appellant's Exhibit 1, Third Party Liability Unit Exhibit 1).
- 7) You testified that you spoke to a Marketplace representative in May 2014 to inquire about your eligibility determination and were told that your proof of income documentation was received, but had not been verified.
- 8) On August 7, 2014, the Marketplace issued a notice of eligibility determination stating that you, your spouse, and your child were eligible for Medicaid effective March 1, 2014 based on an annual household income of \$5,940.12.
- 9) On August 17, 2014, you requested reimbursement for the premiums paid to Oxford during the months of February and August 2014 (Appellant's Exhibit 1).
- 10) You testified, and provided evidence, that you submitted the invoices for premiums paid to Oxford between February and August 2014 (Appellant's Exhibit 1). You further testified, and provided evidence, that you received a package back from [REDACTED] of the Office of

Health Insurance Programs, Reimbursement Unit, which included a post-it note stating,

“Your health care premiums will only be forwarded for reimbursement determination for the months of March until August, which is the delayed period which you waited for your determination. (Your) Premiums are not reimbursable but due to the delay March through August will be forwarded for reimbursement determination” (Appellant’s Exhibit 1).

11) You provided evidence of electronic communications between yourself and ██████ of the New York Department of Health Third Party Liability Unit. On January 23, 2015, the electronic communication sent by ██████ stated in part, “I have calculated insurance payment to be reimbursed to you are March through August 2014 for a total of \$11,919.05. Since our system will not allow us to write a check that large. It will be issued in 2 checks” (Appellant’s Exhibit 1).

12) Also on January 23, 2015, ██████ sent you an electronic communication, which stated in part, “I had mis-calculated the check will be for \$10,127.88 for your premiums for 3/1/14 to 8/31/14. You will receive a letter from the state on your payment” (Appellant’s Exhibit 1).

13) On January 26, 2015, the New York State Department of Health issued a notice stating in part:

“The Health Insurance Premium Payment (HIPP) program is a Medicaid program that pays the health insurance premiums for qualified Medicaid recipients. Our records indicate that you have been identified by the Local Department of Social Services or the New York State of Health to receive payment(s) or reimbursement of health insurance premiums... through the HIPP. You will receive these payments from the Computer Sciences Corporation, the fiscal agent for the New York State Medicaid Program” (Appellant’s Exhibit 1).

14) On March 4, 2015, the Marketplace issued a notice stating that it was not cost effective for New York State of Health to pay for health insurance premiums for you, your spouse, and your child (Appellant’s Exhibit 1, Third Party Liability Unit Exhibit 1).

15) The record reflects that the Department of Health’s Third Party Liability Unit used the programmed HIPP calculator in eMedNY, New York State’s electronic Medicaid system, to determine the average cost of Medicaid coverage, if Medicaid were paying a managed care plan to provide twelve months of coverage. The Third Party Liability Unit

determined that twelve months of managed care plan coverage would cost \$18,222.72 for you, your spouse, and your child. It further determined that the cost of your Oxford premium payments for the same period would be \$21,015.00 (Third Party Liability Unit Exhibit 1).

16) ██████ testified that your case was originally forwarded to her for reimbursement, and therefore, was under the impression that your case had been approved for reimbursement. ██████ further testified, and provided evidence, that after she sent you an electronic communication indicating how much of your premium payments would be reimbursed, she was informed that a cost-effective analysis must be done (Third Party Liability Unit Exhibit 2).

17) You are requesting reimbursement of your monthly insurance premiums paid between February and August 2014 due to the Marketplace's failure to provide a timely eligibility determination..

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 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

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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).

Legal Analysis

The only issue is whether the Medicaid program should provide reimbursement of premiums paid for the health insurance that you, your spouse, and your child received under Oxford from February to August 2014.

You initially applied for health insurance through the Marketplace for yourself, your spouse, and your child on November 6, 2013. However, your application was modified several times between November 6, 2013 and April 2, 2014 and you were requested to submit income documentation by April 20, 2014 to confirm that the information you provided in your application was accurate. On April 2, 2014, business records dated March 6, 2014 illustrating the profits and losses for your company, [REDACTED] between January 1, 2014 and March 6, 2014 were uploaded to your Marketplace account.

When your proof of income was verified on August 6, 2015, you, your spouse, and your child were ultimately determined eligible for Medicaid retroactive to March 1, 2014. However, the timeliness of this eligibility determination, as set out in the August 7, 2014 notice, has not been appealed and is not under review.

Therefore, you, your spouse, and your child were Medicaid eligible retroactive to March 1, 2014. The record reflects that you, your spouse, and your child paid for health insurance coverage outside of the Marketplace between March and August 2014, which are the months you awaited an eligibility determination.

The Medicaid assistance program will 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.

Determinations on whether a Medicaid recipient's personal health insurance is cost-effective, however, is calculated based on a twelve month coverage period.

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You provided documentation to the Marketplace showing that your monthly premium for the months of March through August 2014 cost \$1,751.25, which is \$21,015.00 for twelve months. According to the HIPP calculator, it would cost Medicaid an average of \$18,222.22 to provide coverage through a managed care plan in your county for that same period. Since paying the premiums for your family's personal health insurance would cost Medicaid \$2,792.28 more than providing you coverage directly, it would not be cost-effective for Medicaid to pay your monthly Oxford premiums.

Although the March 4, 2015 notice properly determined that it was not cost effective for New York State of Health to pay for your health insurance premiums, you received multiple credible but contradictory communications that, due to Marketplace error and delay, you were eligible for a reimbursement of \$10,127.88 for the premiums paid for March 1, 2014 to August 31, 2014.

You credibly testified, and provided evidence, that you were advised by [REDACTED] on January 23, 2015 that your premium payments for March through August 2014 would be reimbursed. You further provided evidence that you were issued a notice on January 26, 2015 confirming that you have been identified by New York State of Health to receive reimbursement of health insurance premiums.

You were told by Marketplace representatives that your premium payments would be reimbursed for the months between March and August 2014; therefore, under the facts of this particular case, it is appropriate to reimburse your health insurance premiums for the months of March to August 2014.

Decision

The Marketplace's denial of Medicaid premium assistance is MODIFIED to state that although it is not cost-effective for the Medicaid program to pay your health insurance premiums, under the facts of this particular case, it is appropriate to reimburse your health insurance premiums for the months of March to August 2014.

You, your spouse, and your child remain eligible for Medicaid as of March 1, 2014.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

You, your spouse and your child remain eligible for Medicaid as of March 1, 2014.

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
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- By fax: 1-855-900-5557

Summary

The Marketplace's denial of Medicaid premium assistance is MODIFIED to state that although it is not cost-effective for the Medicaid program to pay your health

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insurance premiums, under the facts of this particular case, it is appropriate to reimburse your health insurance premiums for the months of March to August 2014.

You, your spouse, and your child remain eligible for Medicaid as of March 1, 2014.

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]