



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002727

[REDACTED]

Dear [REDACTED],

On July 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 22, 2014 and December 1, 2014 notices of eligibility determination and December 29, 2014 disenrollment notice.

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:

Did the Marketplace properly determine that you were eligible for Medicaid effective August 1, 2014?

Did the Marketplace properly determine subsequently that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until July 31, 2015?

Did the Marketplace properly terminate your Medicaid Fee-For-Service coverage and Medicaid Managed Care plan enrollment, effective December 31, 2014?

Procedural History

On August 21, 2014, the Marketplace issued a notice of eligibility determination, which stated that you remained conditionally eligible for Medicaid, effective July 1, 2014. You were requested to submit documentation confirming your income before September 7, 2014 or you might be found ineligible for health insurance or eligible for less financial assistance. This determination was based on an attested household income of \$17,360.00.

On August 20 and 21, 2014, documentation confirming your income was uploaded to your Marketplace account.

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).

On August 22, 2014, the Marketplace issued a notice of eligibility determination, which stated that you were eligible for Medicaid effective August 1, 2014 because your household income of \$14,866.80 was at or below the allowable income limit of \$16,105.00.

On August 23, 2014, the Marketplace issued a notice confirming that your coverage through Medicaid would begin August 1, 2014, and your enrollment with New York State Catholic Health Plan, Inc. would begin October 1, 2014.

On October 17, 2014, your account was updated to include your newborn daughter and reflect annual expected earnings of \$14,866.80. On December 1, 2014, the Marketplace issued an eligibility determination stating that you were no longer eligible for Medicaid but would continue to receive Medicaid coverage until July 31, 2015 because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible. This determination was based on an attested household income of \$14,866.80.

On December 29, 2014, the Marketplace issued a disenrollment notice, which stated that your Medicaid fee-for-service coverage and New York State Catholic Health Plan, Inc. enrollment would end, effective December 31, 2014, because you were no longer eligible to remain enrolled in your current health insurance.

On May 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it discontinued your continuous Medicaid coverage prior to July 31, 2015.

On July 9, 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.

Findings of Fact

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

- 1) The record reflects that you elected to receive all information from the Marketplace electronically, as of July 26, 2014.
- 2) You are single and have one child, who was born on [REDACTED]
- 3) According to the August 20, 2014 application, you indicated that you were expecting one child, and attested to an expected household income of \$17,360.00.

- 4) According to the August 21, 2014 application, you expected to file your 2014 federal tax return as single and claim no dependents. In the same application, you did not indicate that you were pregnant. However, you testified that at the time you submitted this application, you were pregnant.
- 5) According to the October 17, 2014 application, you expected to file your 2014 federal tax return as single, and to claim your newborn child as a dependent.
- 6) According to the August 21 and October 17, 2014 applications, you attested to an expected household income of \$14,866.80.00 for the 2014 tax year.
- 7) The record reflects that a copy of your July 31, 2014 paystub was uploaded to your Marketplace account on August 20, 2014, which indicated that you earned \$1,240.00 before taxes were deducted. The record further reflects that a copy of your August 14, 2014 paystub was uploaded to your Marketplace account on August 21, 2014, which indicated that you earned \$1,240.00 before taxes were deducted. (Appellant's Exhibit 1). The Marketplace's system reflects that your income documentation was verified on August 21, 2014.
- 8) According to the August 21, 2014 application, there were no outstanding income verification requests.
- 9) According to the December 29, 2014 disenrollment notice, your Medicaid coverage and Medicaid Managed Care plan enrollment were discontinued on December 31, 2014. The Marketplace's system further reflects that your coverage and enrollment ended on that date. You testified that you did not receive this notice. You further testified that you were not aware that your Medicaid coverage was terminated until you received medical bills in March 2015.
- 10) You testified that you did not receive any notices from the Marketplace regarding your eligibility. You further testified that you did not receive electronic alerts that you had notices awaiting review.
- 11) You testified that you want your previous Medicaid coverage continued as of January 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 (MAGI) 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 FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your applications, that was the 2014 FPL, which was \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

A person whose Medicaid eligibility is based on the modified adjusted gross income if the person or the person's household remains Medicaid eligible for twelve months unless the person becomes ineligible due to “citizenship status, lack of [New York] state residence, or failure to provide a valid social security number” (N.Y. Social Services 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.

Proper Notice – Medicaid

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; 42 CFR § 435.919(a)).

After any decision affecting the enrollee's eligibility, including denial, termination, or suspension of eligibility, notice must be sent at least 10 days before such action goes into effect (18 NYCRR § 358-2.23).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The first issue on appeal is whether the Marketplace correctly determined that you were eligible for Medicaid effective August 1, 2014.

According to the August 21, 2014 application, you expected to file your 2014 federal income tax return as single and claim no dependents. Therefore, according to the information you provided, you were in a one-person household.

On that same application, you attested to an expected household income of \$14,866.80. The Marketplace relied upon that information.

Medicaid can be provided through the Marketplace to adults who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,670.00 for a one-person household. Since \$14,866.80.00 is 127.39% of the 2014 FPL, the Marketplace properly found you to be eligible for Medicaid.

Accordingly, the August 22, 2014 notice of eligibility determination that you were eligible for Medicaid is correct and is AFFIRMED.

The second issue is whether the Marketplace properly determined that your Medicaid coverage should continue until July 31, 2015.

On October 17, 2014, you modified your application for health insurance to include your newborn daughter and reflected the same income of \$14,866.80 for 2014.

Medicaid-eligible adults are provided with 12 months of continuous coverage even if the household's income increases above eligibility levels during that period, unless determined ineligible due to citizenship status, lack of New York state residence, or failure to provide a valid social security number. There is no evidence in the record that your income increased above the income threshold, or that you failed to meet any other eligibility requirements as of October 17, 2014.

Since you were correctly determined eligible for Medicaid effective August 1, 2014 and you did not fail to meet any of the eligibility requirements for Medicaid, your Medicaid eligibility should have continued for the remainder of your 12 month eligibility period, which ended on July 31, 2015.

Therefore, the Marketplace's December 1, 2014 notice of eligibility determination that you were no longer eligible for Medicaid but will continue to receive Medicaid coverage until July 31, 2015 is MODIFIED to state that you "remain eligible" for Medicaid until July 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).

The last issue is whether you were properly terminated from your Medicaid coverage and Medicaid Managed Care plan enrollment, effective December 31, 2014.

Since you were correctly determined eligible for Medicaid effective August 1, 2014, and you did not fail to meet any of the eligibility requirements for Medicaid, your Medicaid coverage should have continued without interruption for 12 consecutive months and there was no basis to terminate your enrollment in your Medicaid Managed Care plan.

Furthermore, the Marketplace must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including termination in benefits and services. Notice is timely if it is sent at least 10 days before the action becomes effective.

On December 29, 2014, the Marketplace sent you a notice that your Medicaid Fee-For-Service coverage and Medicaid Managed Care plan enrollment would end effective December 31, 2014. This notice was sent 2 days prior to the termination of your Medicaid coverage; therefore the Marketplace did not provide you proper notice of the action to terminate your Medicaid coverage.

Since the Marketplace improperly discontinued your Medicaid coverage, including your enrollment in a Medicaid Managed Care plan, prior to the end of your 12 month continuous coverage period, and failed to provide you proper notice of the action to terminate your Medicaid coverage, the December 29, 2014 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your Medicaid eligibility and Medicaid Managed Care plan enrollment with New York State Catholic Health Plan, Inc. as of January 1, 2015, for the remainder of your previous Medicaid eligibility year.

Decision

The August 22, 2014 notice of eligibility is **AFFIRMED**.

The December 1, 2014 notice of eligibility determination is **MODIFIED** to state that you remain eligible for Medicaid until July 31, 2015.

The December 29, 2014 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your Medicaid eligibility and Medicaid Managed Care plan enrollment with New York State Catholic

Health Plan, Inc. as of January 1, 2015, for the remainder of your previous Medicaid eligibility year.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You continue to be eligible for Medicaid coverage until July 31, 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 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

The August 22, 2014 notice of eligibility is **AFFIRMED**.

The December 1, 2014 notice of eligibility determination is **MODIFIED** to state that you remain eligible for Medicaid until at least July 31, 2015.

The December 29, 2014 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your Medicaid eligibility and Medicaid Managed Care plan enrollment with New York State Catholic Health Plan, Inc. for the remainder of your previous Medicaid eligibility year.

You continue to be eligible for Medicaid coverage until July 31, 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:

