



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

Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002990

[REDACTED]

Dear [REDACTED],

On July 23, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's disenrollment from your Medicaid Managed Care plan, effective December 1, 2014.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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).

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Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you and your spouse were eligible for Medicaid effective January 1, 2014?

Did the Marketplace properly determine that you and your spouse were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2014?

Did the Marketplace properly terminate you and your spouse's Medicaid Managed Care plan enrollment with UnitedHealthcare of New York, Inc., effective December 1, 2014?

Procedural History

The Marketplace received your initial application for health insurance on December 18, 2013, and prepared a preliminary eligibility determination stating that you and your spouse were eligible for Medicaid. This preliminary determination was based on an attested expected income of \$36,835.00.

The Marketplace received your modified application for health insurance on January 8, 2014, in which you attested to an expected annual household income of \$42,135.00. The Marketplace prepared a preliminary eligibility determination that same day, stating that you and your spouse were eligible for Medicaid.

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On March 27 and April 4, 2014, Certificates of Creditable Coverage for yourself and your spouse, indicating that your health insurance through [REDACTED] ended effective December 31, 2013, were uploaded to your Marketplace account.

Also on April 4, 2014, a Certificate of Group Health Plan Coverage for yourself and your spouse, indicating that your health insurance through UnitedHealthcare Oxford ended effective March 1, 2014, was uploaded to your Marketplace account.

On April 19, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, effective April 1, 2014; however, it also stated that you and your spouse were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until March 31, 2015. The notice further stated that you and your spouse could not be enrolled in a Medicaid Managed Care plan because you have comprehensive Third Party Health Insurance to assist in meeting your healthcare needs.

Between April 20 and October 1, 2014, the Marketplace issued multiple notices of eligibility determination stating that you and your spouse were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2014. The notice further stated that you and your spouse could not be enrolled in a Medicaid Managed Care plan because you have comprehensive Third Party Health Insurance to assist in meeting your healthcare needs.

On November 28, 2014, the Marketplace issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid as of November 1, 2014, and needed to select a health plan.

On December 11, 2014, the Marketplace issued a notice confirming that as of October 20, 2014, you and your husband were enrolled in Medicaid effective November 1, 2014, and enrolled in your Medicaid Managed Care plan, UnitedHealthcare of New York, Inc., effective December 1, 2014.

On May 18, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal regarding you and your spouse's Medicaid Managed Care plan disenrollment for the month of December 2014.

On July 23, 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 submitted your initial application for health insurance on December 18, 2013. The Marketplace's system further reflects that you and your spouse were enrolled in Medicaid Fee-For-Service beginning January 1, 2014 and ending December 31, 2014. This preliminary determination was based on an attested expected income of \$36,835.00.
- 2) According to the December 18, 2013 application, you expected to file your 2014 federal income tax return jointly with your spouse and claim your three children as dependents on that tax return.
- 3) The record reflects that you submitted proof of Third Party Health Insurance (TPHI) coverage for you and your spouse on March 27, 2014 and April 4, 2014. According to this documentation, your TPHI coverage through [REDACTED] ended on December 31, 2013, and your TPHI coverage through UnitedHealthcare Oxford ended on March 1, 2014 (Appellant's Exhibit 1, July 23, 2015).
- 4) The Marketplace's system reflects that you and your spouse were enrolled in UnitedHealthcare of New York, Inc. as your Medicaid Managed Care (MMC) plan with coverage beginning December 1, 2014, and ending December 31, 2014. You testified that you received MMC plan insurance cards for December 2014 coverage.
- 5) The Marketplace's system further reflects that your MMC plan enrollment was cancelled, effective December 1, 2014. There is no evidence in the record that notice was issued regarding your MMC plan disenrollment.
- 6) You testified that you were aware that your MMC plan enrollment was cancelled after you received bills for medical services incurred during the month of December 2014. You further testified that you spoke to a representative with UnitedHealthcare of New York, Inc., who informed you that your MMC plan coverage was never activated by the Marketplace.
- 7) You are requesting reinstatement of you and your spouse's MMC plan coverage for the month of December 2014, in order to cover medical bills incurred during that month.

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

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Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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), 435.911(b)(1), 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 application, that was the 2013 FPL, which was \$27,570.00 for a five-person household (78 Fed. Reg. 5182).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their 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 (N.Y. Soc. Serv. Law § 366(4)(c)).

Medicaid Managed Care Plans

Generally, with regard to enrollment in a Medicaid Managed Care plan (MMC), Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC (18 NYCRR § 360-10.4(a)).

A Medicaid recipient who has primary medical or health care coverage available from a Third-Party payor may be required to enroll with a managed care program when the payment of the premium or cost sharing amounts would be cost-effective, as determined by the local social services district (NY Soc. Serv. Law § 364-j(3)(e)(xx)).

Proper Notice – Medicaid

The Marketplace must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including a denial, termination, or suspension of eligibility, or a denial or change in benefits and services (42 CFR § 435.919(a)).

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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).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you and your spouse were eligible for Medicaid effective January 1, 2014.

You are in a five-person household. According to the record, you expected to file your 2014 tax return as married filing jointly and claim three children as dependents.

On your December 18, 2013 application, you attested to an expected household income of \$36,835.00 for the 2014 tax year.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 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 \$27,570.00 for a five-person household. Since \$36,835.00 is 133.61% of the 2013 FPL, the Marketplace properly found you and your spouse to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

The second issue is whether the Marketplace properly determined that you and your spouse were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2014.

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called "continuous coverage."

The record reflects that on January 8, 2014, you changed the income amount in your application and your expected income subsequently increased. However, since you and your spouse were correctly determined eligible for Medicaid based on the application you submitted on December 18, 2013, you and your spouse remained eligible for Medicaid for 12 continuous months regardless of any increases in your household income.

Since the Marketplace properly determined you eligible for Medicaid as of January 1, 2014, and therefore eligible for continuous coverage, the notices of eligibility determination issued between April 20, 2014 and October 1, 2014 were

correct insofar as they related to your continuous coverage period, and are AFFIRMED.

The next issue is whether the Marketplace properly disenrolled you and your spouse from your Medicaid Managed Care plan (MMC) enrollment with UnitedHealthcare of New York, Inc., effective December 1, 2014.

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

On December 11, 2014, the Marketplace sent you a notice confirming that you and your spouse were enrolled in your Medicaid Managed Care plan, UnitedHealthcare of New York, Inc., effective December 1, 2014.

The Marketplace's system reflects that you and your spouse's MMC coverage was cancelled, effective December 1, 2014; however, there is no evidence in the record that the Marketplace sent you notice of this cancellation prior to the termination of your MMC coverage, nor is there any eligibility determination that would justify disenrolling you from the Managed Care plan.

Since the Marketplace did not provide you notice to justify changing your eligibility, nor did it provide you with notice of the action to terminate your Managed Care plan coverage ten days prior to its effective date, the Marketplace failed to provide you timely notice and, therefore, improperly terminated you and your spouse's MMC coverage on December 1, 2014.

Your case is RETURNED to the Marketplace to reinstate coverage under the Managed Care plan with UnitedHealthcare of New York, Inc. for you and your spouse, effective December 1, 2014 to December 31, 2014, which is the remainder of your continuous coverage period.

Decision

The notices of eligibility determination issued between April 20, 2014 and October 1, 2014 are AFFIRMED, insofar as they related to your continuous coverage period.

The Marketplace failed to provide you timely notice of your Medicaid Managed Care plan cancellation, and therefore improperly terminated your Medicaid Managed Care plan enrollment on December 1, 2014.

Your case is RETURNED to the Marketplace to reinstate you and your spouse's MMC enrollment with UnitedHealthcare of New York, Inc., effective December 1,

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2014 to December 31, 2014, which is the remainder of your continuous coverage period.

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

You and your spouse's Medicaid Managed Care plan enrollment with UnitedHealthcare of New York, Inc. will be reinstated effective December 1, 2014 to December 31, 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The notices of eligibility determination issued between April 20, 2014 and October 1, 2014 are AFFIRMED, insofar as they related to your continuous coverage period.

The Marketplace failed to provide you timely notice of your Medicaid Managed Care plan cancellation, and therefore improperly terminated your Medicaid Managed Care plan enrollment on December 1, 2014.

Your case is RETURNED to the Marketplace to reinstate you and your spouse's MMC enrollment with UnitedHealthcare of New York, Inc., effective December 1, 2014 to December 31, 2014, which is the remainder of your continuous coverage period.

You and your spouse's Medicaid Managed Care plan enrollment with UnitedHealthcare of New York, Inc. will be reinstated effective December 1, 2014 to December 31, 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:

