



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

## Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003006

[REDACTED]

Dear [REDACTED],

On July 1, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 19, 2015 eligibility redetermination.

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 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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## Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003006

[REDACTED]

## Issues

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

Did the Marketplace properly determine on April 15, 2015 that you were eligible for Medicaid as of April 1, 2015?

Did the Marketplace properly determine on May 19, 2015 that you were eligible for Medicaid continuous coverage until May 31, 2016?

## Procedural History

On April 15, 2015, the Marketplace received your initial application for health insurance in 2015.

On April 16, 2015, the Marketplace issued a notice of eligibility determination that you were eligible for Medicaid effective April 1, 2015, based on a reported household income of \$0.00. The notice informed you that because your family had comprehensive third party health insurance, you cannot enroll in Medicaid Managed Care and, to obtain additional benefits and services that are not covered by your health insurance plan, you must use a Medicaid participating provider and present your New York State Benefit Identification card at the time of service.

On May 19, 2015, you updated your application; specifically, you attested to an expected 2015 income of \$34,000.00. The Marketplace made a preliminary redetermination that you are no longer eligible for Medicaid; however your coverage will continue until March 31, 2016.

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That same day, you spoke with the Marketplace's Account Review Unit and appealed the preliminary eligibility redetermination insofar as you did not want Medicaid coverage and wanted to be determined eligible for tax credits.

On May 20, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the May 19, 2015 preliminary redetermination. That notice further stated that you do not need to pick a plan and can use your New York State Benefit Identification card when receiving services from Medicaid participating providers.

On June 26, 2015, the Marketplace issued a notice of eligibility redetermination that you are no longer eligible for Medicaid; however, your Medicaid coverage will continue until March 31, 2016.

On July 1, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeal Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to provide proof of your COBRA coverage termination.

On July 7, 2015, the Appeals Unit received a three page fax from you, consisting of (1) A cover page; and (2) A copy of the COBRA termination notice from [REDACTED] dated April 20, 2015. This three page fax was made part of the record as "Appellant's Exhibit A" and the record was closed that same day.

## **Findings of Fact**

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

- 1) You testified that you are single, plan on filing your 2015 tax return using the tax filing status of Single, and will not be claiming any dependents on your 2015 tax return.
- 2) You testified that you submitted your initial application for health insurance to the Marketplace on April 15, 2015 because you knew your COBRA coverage was due to expire on April 30, 2015 and you were going to need health insurance coverage effective May 1, 2015.
- 3) You testified that, when you applied on April 15, 2015, you did not understand that you would be determined eligible for Medicaid in April 2015 because of your \$0.00 income that month.
- 4) You testified that it was your intent to apply for coverage to begin May 1, 2015 because your COBRA coverage was ending April 30, 2015 and you wanted to make sure you did not have a gap in health insurance coverage.

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- 5) The COBRA termination notice from [REDACTED], dated April 20, 2015, stated that, "This notice is to inform you that the following coverage was canceled as detailed below because of your entitlement to Medicare and cannot be reinstated." The effective dates of coverage for medical and dental coverage show the COBRA beginning date of coverage as "02-01-2014" and the end date of coverage as "04-30-2015" (Appellant's Exhibit A, p. 2).
- 6) According to your May 19, 2015 updated Marketplace application and your testimony at hearing, you attested to expected earnings in 2015 of \$34,000.00 because you became re-employed beginning in May 2015.
- 7) You testified that you do not want to be in Medicaid continuous coverage until March 31, 2016, because you are not an intended recipient of Medicaid and you would prefer to have your eligibility redetermined for financial assistance as of May 1, 2015, based on your current expected 2015 income of \$34,000.00.
- 8) You currently reside in Suffolk County, New York.

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 application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is 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).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (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)).

## **Legal Analysis**

The first issue raised on appeal is whether the Marketplace properly determined that you were eligible for Medicaid effective April 1, 2015.

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 \$11,770.00 for a one-person household, which at 138% is \$16,243.00 annually or \$1,354.00 monthly. Since \$0.00 is 0% of the 2015 FPL, the Marketplace properly found you to be eligible for Medicaid on an expected annual income basis in the month of April 2015, using the information provided in your application. The Marketplace also correctly determined that you were not eligible to enroll in Medicaid Managed Care plan because you had third party health insurance in place at the time, that is, COBRA coverage. Therefore, the April 16, 2015 eligibility determination is AFFIRMED.

The second issue raised on appeal is whether you should have been given Medicaid continuous coverage on May 19, 2015.

You updated your account on May 19, 2015, and reported your income from your new employment so that your eligibility could be redetermined. The Marketplace determined that, based on that updated information, you remained eligible for Medicaid continuous coverage since your Medicaid coverage had taken effect April 1, 2015.

However, as of May 1, 2015, your Medicaid coverage was now determined to be your primary health insurance because you lost your minimum essential coverage when your

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COBRA coverage terminated on April 30, 2015. The Marketplace also informed you that you did not need to pick a plan and could continue to use your New York State Benefit Identification card. Since you no longer had minimum essential coverage, you should have been permitted to select a Medicaid Managed Care plan, but were not. Therefore, the May 20, 2015 notice of eligibility redetermination is MODIFIED, in part, to state you can pick a Medicaid Managed Care plan through the Marketplace.

The Marketplace is directed to set your Marketplace account to the appropriate status to allow you to select a Medicaid Managed Care plan.

## **Decision**

The April 16, 2015 eligibility determination notice is AFFIRMED.

The May 20, 2015 eligibility redetermination notice is MODIFIED, in part, to state you can pick a Medicaid Managed Care plan through the Marketplace.

The Marketplace is directed to set your Marketplace account to the appropriate status to allow you to select a Medicaid Managed Care plan.

**Effective Date of this Decision:** October 15, 2015

## **How this Decision Affects Your Eligibility**

You remain eligible for continuous Medicaid coverage.

Since you lost your minimal essential coverage on April 30, 2015, you can select a Medicaid Managed Care plan through the Marketplace.

## **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.

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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 April 16, 2015 eligibility determination notice is AFFIRMED.

The May 20, 2015 eligibility redetermination notice is MODIFIED, in part, to state you can pick a Medicaid Managed Care plan through the Marketplace.

The Marketplace is directed to set your Marketplace account to the appropriate status to allow you to select a Medicaid Managed Care plan.

You remain eligible for continuous Medicaid coverage.

## **Legal Authority**

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

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**A Copy of this Decision Has Been Provided To:**

