



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: AP000000003175

[REDACTED]

Dear [REDACTED],

On August 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 and May 8, 2015 eligibility determinations.

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).

This page intentionally left blank.



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

Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003175



Issue

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

Did the Marketplace properly determine that you were no longer eligible to enroll in a qualified health plan, effective May 31, 2015?

Procedural History

According to your Marketplace account, you were eligible for Medicaid in 2014 retroactively to January 1, 2014, and you were enrolled in a Medicaid Managed Care (MMC) plan effective May 1, 2014.

On October 7, 2014, the Marketplace issued a renewal notice that stated, if the information in your Marketplace account is accurate, you are automatically re-enrolled in your MMC plan, effective January 1, 2015.

On January 17 and 19, 2015, the Marketplace issued notices of eligibility determination stating that you remained conditionally eligible for Medicaid, effective March 1, 2015. Both notices requested that you provide proof of your incarceration status before April 18, 2015 and April 20, 2015 respectively.

Those same days, the Marketplace issued notices confirming your enrollment in Medicaid Fee-For-Service (FFS) beginning March 1, 2015 and enrollment with United Healthcare of New York, Inc., an MMC plan, beginning May 1, 2015.

In January 2015 and February 2015, you uploaded several documents to your Marketplace account regarding your incarceration status.

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 May 3, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were no longer eligible to enroll in health insurance through the Marketplace because you had not provided proof of your incarceration status and your eligibility for coverage would end effective May 31, 2015.

On May 4, 2015, the Marketplace issued a notice that stated your enrollment in your MMC plan was terminated effective May 31, 2015.

On May 8, 2015, the Marketplace issued a notice of eligibility redetermination that you were conditionally eligible for Medicaid, effective May 1, 2015. The notice further requested that you provide proof of your incarceration status before August 5, 2015.

That same day, the Marketplace issued a notice confirming your enrollment in Medicaid FFS beginning May 1, 2015 and enrollment with United Healthcare of New York, Inc., an MMC plan, beginning June 1, 2015.

You submitted a written letter, dated May 21, 2015, appealing the request for more information regarding your incarceration status.

In May, June, and July 2015, you uploaded letters and documents to your Marketplace account regarding your incarceration status.

On May 28, 2015, you spoke with the Marketplace's Account Review Unit and appealed the May 3, 2015 and May 8, 2015 determinations insofar as you were not eligible to enroll in a qualified health plan through the Marketplace in the first instance and then found conditionally eligible in the second instance pending proof of your incarceration status.

On August 5, 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 support the following findings of fact:

- 1) You testified that you received the Marketplace's notices requesting documentation confirming your incarceration status.
- 2) You testified at hearing and had previously provided documentary proof in a July 7, 2015 letter from the New York City Department of Correction that you were incarcerated from November 28, 2012 to March 26, 2013. Your identification numbers were provided in that letter, including your NYSID # [REDACTED] (Appellant's Exhibit A).

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).

- 3) You testified that you have not been incarcerated since March 26, 2013, when you were released from the New York City Department of Correction, which is over two years ago. You believe there is an error in the Marketplace's data base, but the Marketplace has not provided you with any system data to explain why your incarceration status is currently at issue.
- 4) You provided an undated snapshot of the Department of Corrections and Community Supervision website page that states, "THERE IS NO INMATE ON FILE BEARING THE LAST NAME [REDACTED]" (Appellant's Exhibit B).
- 5) In your May 21, 2015 letter, you indicated that you provided pay stubs as proof of employment in the beginning of 2014, a 2014 Form 1099 showing you worked that year, a letter from your court appointed psychologist, a copy of your lease agreement for an apartment with a [REDACTED], NY address and a rental period from September 2, 2014 through August 31, 2015, and scanned receipts from your weekly visits with your parole officer in October, November, and December 2014 (Appellant's Exhibit C).
- 6) Your Marketplace account reflects that your eligibility for Medicaid in 2014 was determined based on the above documents you had submitted as proof you were not incarcerated.
- 7) In a February 2, 2015 letter from your court-appointed psychologist, he stated that since your release in March 2013 from a period of incarceration you have "regularly attend outpatient psychotherapy program" and "your behavior in the community continued to be monitored by the New York City Department of Probation, [REDACTED] Division" (Appellant's Exhibit D).
- 8) You testified that you continue to regularly attend the outpatient psychotherapy program as a condition of probation.
- 9) Attached to a February 6, 2015 letter from you, are scanned receipts confirming you reported to your probation officer at NYC Department of Probation on October 31, 2014, November 25, 2014, and December 29, 2014 (Appellant's Exhibit E).
- 10) You testified that you are no longer employed since February 2014, so you cannot provide proof of employment with current paystubs or with a letter from your employer as you had in the beginning of 2014, but did submit a 2014 Form 1099 to show you worked for [REDACTED] during that year and a letter from previous employer, whom you worked for in 2013 (Appellant's Exhibit F and G).

- 11) You are seeking to have the conditional status of your eligibility for Medicaid removed because you have proven you are not incarcerated and so that you do not have any more interruptions in your health insurance coverage.

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

Applicable Law and Regulations

Eligibility for Enrollment in Medicaid

The “eligibility of Medicaid beneficiaries whose financial eligibility is determined using MAGI-based income must be renewed once every 12 months” (42 CFR § 435.916(a)). A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person’s household remains Medicaid eligible for 12 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)).

The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace must provide an annual redetermination notice with the person’s projected eligibility determination for the following year, “including, if applicable, the amount of any advance payments of the premium tax credit and the level of any cost-sharing reductions or eligibility for Medicaid, [Child Health Plus], or the [Basic Health Plan]” (45 CFR §§ 155.335(c)(3)).

The Marketplace must verify an applicant’s attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant’s attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant’s attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3), (f)(2)(i)-(ii)).

If the Exchange remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant’s eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)).

Legal Analysis

You became eligible for Medicaid through the Marketplace effective January 1, 2014.

On October 7, 2014, the Marketplace issued a notice stating that it was time to renew your NY State of Health Coverage for 2015 plan year, because your eligibility for Medicaid began on January 1, 2014. The notice stated that you were determined eligible for Medicaid and were automatically re-enrolled in the same MMC plan you had in 2014 and did not need to do anything more.

However, in January 2015, the Marketplace issued notices that you were conditionally eligible for Medicaid and needed to submit documents regarding your incarceration status before April 20, 2015 at the latest.

The Marketplace is required to redetermine your eligibility every year, and requested you to update your account. Although you believed you had done so with the documents you had previously submitted, the Marketplace could not verify your incarceration status and eligibility and it properly determined that you were conditionally eligible for Medicaid as of March 1, 2015 and enrolled in an MMC plan as of May 1, 2015. Therefore, we must AFFIRM the January 17 and 19, 2015 notices of eligibility determination.

However, on February 2, 2015, you uploaded a letter from your court-appointed psychologist, in which he indicated you were treating in an outpatient program under his supervision and being monitored by the NYC Department of Corrections as of your March 2013 release from incarceration. Additionally, you had previously submitted documentation including a lease agreement providing your proof of address at apartment in [REDACTED] NY from September 4, 2014 to August 31, 2015, and your attendance at the NYC Department of Probation Office.

We note that as of the May 3, 2015 notice of eligibility redetermination, the Marketplace did not find the proof sufficient to prove your release from incarceration, which is in error. To prove you are no longer incarcerated, the Marketplace can accept release paperwork, a current paystub, a letter from an employer, proof of address, or a detailed statement from a parole officer. Although you had provided certain of these documents, the Marketplace was still unable to verify your incarceration status. Therefore, we must AFFIRM the May 3, 2015 notice of eligibility redetermination; however it has since been superseded (replaced) by the May 8, 2015 eligibility redetermination.

By the May 8, 2015 notice of eligibility redetermination, the Marketplace found you conditionally eligible for Medicaid and, according to the May 8, 2015 enrollment notice, you had coverage under Medicaid as of May 1, 2015 and were re-enrolled in your Medicaid Managed Care (MMC) plan such that there was no gap in your Medicaid coverage. Since both notices were correct when issued by the Marketplace, they are AFFIRMED.

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).

Notwithstanding, you want the conditional status of your eligibility for Medicaid removed so that you do not have to keep providing proof of no incarceration. To this end, you submitted a July 2, 2015 letter from the NYC Department of Corrections as proof of incarceration, which letter indicated your incarceration period ended March 26, 2013.

Since it appears there is now sufficient documentation in your Marketplace file to establish your incarceration status as of February 2, 2015 and July 2, 2015, coupled with the employment and proof of address documents you previously submitted, your case is RETURNED to the Marketplace for redetermination solely to the extent of confirming your eligibility for Medicaid unconditionally based upon the documentation now available.

Decision

The January 17 and 19, 2015 notices of eligibility determination are AFFIRMED.

The May 3, 2015 notice of eligibility determination is AFFIRMED as correct when made but has since been superseded (replaced) by the May 8, 2015 notice of eligibility determination.

The May 8, 2015 notice of eligibility determination and enrollment notice are AFFIRMED.

The case is RETURNED to the Marketplace to review the documentation now in the file, including but not limited to the February 2, 2015 correspondence from your court-appointed psychologist proving you were in an outpatient program under his supervision since March 2013 and the July 2, 2015 correspondence from the NYC Department of Corrections proving your end date of incarceration was March 26, 2013, to determine the sufficiency of these documents coupled with the documents you previously submitted in order to confirm your eligibility for Medicaid.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

You remain conditionally eligible for health coverage under Medicaid as of May 1, 2015 and with your Medicaid Managed Care plan as of June 1, 2015 through the Marketplace at this time.

Your case is being sent back to the Marketplace to verify the incarceration documentation you submitted on February 2, 2015 and July 2, 2015, along with the documents you had previously submitted, and redetermine the conditional status of your eligibility for Medicaid.

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 Marketplace will issue a redetermination in your case regarding your conditional eligibility status for Medicaid.

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 January 17 and 19, 2015 notices of eligibility determination are **AFFIRMED**.

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 May 3, 2015 notice of eligibility determination is AFFIRMED as correct when made but has since been superseded (replaced) by the May 8, 2015 notice of eligibility determination.

The May 8, 2015 notice of eligibility determination and enrollment notice are AFFIRMED.

You remain conditionally eligible for health coverage under Medicaid as of May 1, 2015 and with your MMC plan as of June 1, 2015 through the Marketplace at this time. The case is RETURNED to the Marketplace to review the documentation now in the file, including but not limited to the February 2, 2015 correspondence from your court-appointed psychologist proving you were in an outpatient program under his supervision since March 2013 and the July 2, 2015 correspondence from the NYC Department of Corrections proving your end date of incarceration was March 26, 2013, to determine the sufficiency of these documents coupled with the documents you previously submitted in order to confirm your eligibility for Medicaid.

The Marketplace will issue a redetermination in your case regarding your conditional eligibility status for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

