



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

Notice of Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003465

[REDACTED]

Dear [REDACTED]

On August 26, 2015, your Authorized Representative appeared on your behalf by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 2015 disenrollment notice and May 15, 2015 eligibility determination.

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 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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STATE OF NEW YORK
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Decision

Decision Date: November 24, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003465

[REDACTED]

Issue

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

Did the Marketplace properly disenroll you from your Medicaid coverage, effective April 30, 2015; and, if so, did it properly determine your coverage start date under your silver-level qualified health plan to be June 1, 2015?

Procedural History

On May 8, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid, effective May 1, 2014.

On March 8, 2015, the Marketplace issued a notice stating that it was time to renew your NY State of Health coverage. The notice also stated that you could not be reenrolled in your current health plan and that you would need to select a new plan if you wanted coverage. It was issued based on information about you from state and federal data source obtained as of March 3, 2015. You were found eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$182.00 per month; eligible for cost-sharing reductions (CSR); and ineligible for Medicaid. This eligibility determination was effective May 1, 2015.

On April 17, 2015, the Marketplace issued a disenrollment notice confirming that your Medicaid coverage would end effective April 30, 2015.

On May 14, 2015, the Marketplace received a revised application.

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On May 15, 2015, the Marketplace issued an eligibility redetermination notice stating that you were eligible to enroll in a QHP; eligible to receive an APTC of up to \$204.00 per month; and, if you selected a silver-level plan, eligible for CSR. This eligibility determination was effective June 1, 2015.

Also on May 15, 2015, the Marketplace issued a notice confirming your selection of and enrollment in a silver-level QHP with a premium responsibility of \$179.54, after applying the maximum APTC of \$204.00. The notice further stated that your coverage could begin as early as June 1, 2015, provided your first month's premium was received.

On June 12, 2015, you spoke with the Marketplace's Account Review Unit and appealed your disenrollment from Medicaid as of April 30, 2015.

On August 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. [REDACTED], also attended at the hearing as your Authorized Representative. 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) You testified that you wanted [REDACTED], to act as your Authorized Representative during the hearing.
- 2) You began receiving Medicaid on May 1, 2014 as the result of the May 8, 2014 eligibility determination.
- 3) Your application reflects that you elected to receive all correspondence from the Marketplace electronically.
- 4) [REDACTED] testified that your e-mail address and mailing address contained within your application were accurate.
- 5) The Marketplace issued a renewal notice on March 8, 2015 stating that you were no longer eligible for Medicaid. The notice also stated that you needed to make changes to your account between March 16, 2015 and April 15, 2015 for your new plan to be effective May 1, 2015.
- 6) Your account was updated on May 14, 2015, where you enrolled in a silver-level QHP.

- 7) [REDACTED] testified that you never received any e-mail or written notice from the Marketplace regarding renewing your coverage or that you would be disenrolled from Medicaid.
- 8) [REDACTED] testified that that had you known your insurance would be ending as of April 30, 2015, you would have never scheduled an appointment for early May 2015, for which you were charged approximately \$1,000.00 because your Medicaid coverage had lapsed.
- 9) On May 14, 2015, you both revised your application and selected a silver-level plan for your coverage. The Marketplace determined your coverage start date under that plan to be June 1, 2015.
- 10) [REDACTED] testified that you were seeking an extension of your Medicaid coverage to May 30, 2015 or, in the alternative, to backdate your silver-level QHP coverage to May 1, 2015.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Medicaid Annual Recertification

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). 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)).

Electronic Notice

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (42 CFR §435.918(a)).

If the individual elects electronic communications, the Marketplace must send “an email or other electronic communication alerting the individual that a notice has been posted to his or her account” and send a notice by regulation mail within three business days if the electronic communication cannot be delivered (42 CFR §435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether the Marketplace properly disenrolled you from your Medicaid coverage, effective April 30, 2015.

The Marketplace must redetermine a qualified individual’s eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the information by which the Marketplace will use to determine an individual’s eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On March 8, 2015, the Marketplace issued an annual eligibility redetermination notice in your case. The notice stated you could not be reenrolled in your current health plan and that you would need to select a new plan if you wanted coverage. This notice was issued based on information about you from state and federal data sources obtained as of March 3, 2015. This renewal notice found you eligible to enroll in a qualified health plan (QHP); eligible to receive an advance premium tax credit (APTC) of up to \$182.00 per month; eligible for cost-sharing reductions (CSR); and ineligible for Medicaid. The notice further stated

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you need to make changes to your account between March 16, 2015 and April 15, 2015 for your new plan to be effective May 1, 2015.

The credible evidence reflects that you did not update your account until May 14, 2015.

The Marketplace issued a disenrollment notice on April 17, 2015 confirming that your Medicaid coverage would end effective April 30, 2015.

Notices were uploaded to your account for both the March 8, 2015 eligibility determination and April 17, 2015 disenrollment notice and e-mails were sent advising you of these notice.

██████████ testified that you did not receive an e-mail regarding either the March 8, 2015 eligibility determination notice or April 17, 2015 disenrollment notice, nor did you receive the notifications via U.S. Mail.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice has been posted to your account.

If the electronic communication failed, the Marketplace was required to send a notice by regular mail within three business days of the date of the failed electronic communication if the electronic communication was undeliverable.

The record does not contain any evidence on behalf of the Marketplace as to whether or not the electronic communications were undeliverable. The record also does not contain evidence that the notices were sent by regular mail within three business days of the date of a failed electronic communication. Without evidence on behalf of the Marketplace, that you were given proper electronic notice or proper written notice, the notices in question must be Rescinded and/or Modified.

Therefore, the March 8, 2015 eligibility determination notice is MODIFIED to state that you are eligible to enroll in a QHP, eligible to receive APTC and CSR, and ineligible for Medicaid is effective June 1, 2015. The April 17, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage ends effective May 31, 2015.

Since as a result of this decision, your Medicaid coverage is extended to May 30, 2015, we do not reach the question of the Marketplace properly found the coverage start date under your silver-level qualified health plan to be June 1, 2015.

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Decision

The March 8, 2015 eligibility determination notice is MODIFIED to state that you are eligible to enroll in a QHP, eligible to receive APTC and CSR, and ineligible for Medicaid is effective June 1, 2015.

The April 17, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage ends effective May 31, 2015

Effective Date of this Decision: November 24, 2015

How this Decision Affects Your Eligibility

Your Medicaid coverage continued until May 31, 2015.

Your silver-level qualified health plan coverage begins June 1, 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.

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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
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Summary

The March 8, 2015 eligibility determination notice is MODIFIED to state that you are eligible to enroll in a QHP, eligible to receive APTC and CSR, and ineligible for Medicaid is effective June 1, 2015.

The April 17, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage ends effective May 31, 2015

Your Medicaid coverage continued until May 31, 2015.

Your silver-level qualified health plan coverage begins June 1, 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:

[Redacted]

[Redacted]