



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

Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003538

[REDACTED]

Dear [REDACTED],

On August 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 16, 2015 eligibility determination, May 18, 2015 disenrollment notice, and June 19, 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 regulations 45 CFR § 155.545(b).

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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly terminate your Medicaid coverage, effective May 31, 2015?

Did the Marketplace properly determine that you were eligible to receive up to \$305.00 per month in advance premium tax credit, effective August 1, 2015?

Did the Marketplace properly determine that you were eligible for cost-sharing reductions?

Did the Marketplace properly determine that you were not eligible for Medicaid?

Procedural History

On June 24, 2014, an eligibility determination notice was issued stating that you were eligible for Medicaid because your household income of \$16,016.00 was at or below the allowable income limit. This eligibility was effective June 1, 2014. That same notice confirmed that you had selected EmblemHealth as your Medicaid Managed Care Plan and the effective date of that plan was August 1, 2014.

On April 12, 2015, the Marketplace issued a notice that it was time to renew your health insurance. That notice stated that based on information from federal and

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state sources, the Marketplace could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by May 15, 2015 or you might lose the financial assistance you were currently receiving.

On May 16, 2015, the Marketplace issued a notice stating that you had not responded to the renewal notice and that you were therefore no longer eligible for financial assistance.

On May 18, 2015, the Marketplace issued a disenrollment notice stating that your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth would end effective May 31, 2015.

On June 18, 2015, the Marketplace received your updated application for health insurance. That day, a preliminary eligibility determination was prepared, stating that you were eligible to receive an advance premium tax credit of up to \$305.00 per month and cost-sharing reductions, effective August 1, 2015.

Also on June 18, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your eligibility for financial assistance.

On June 19, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the June 18, 2015 application, stating that you were newly eligible to receive an advance premium tax credit of up to \$305.00 per month and, if you selected a silver level plan, for cost-sharing reductions, effective August 1, 2015. The notice further stated that you were not eligible for Medicaid because your household income of \$18,473.00 was over the allowable income limit.

On August 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On August 28, 2015, the Marketplace's Appeals Unit did not receive your supporting evidence, and the record was closed.

Findings of Fact

- 1) You testified that you did not receive any notice from the Marketplace regarding the need to renew your information to ensure that your coverage would not be interrupted.

- 2) You testified that you did not receive any notice from the Marketplace indicating that your Medicaid coverage would be terminated.
- 3) Your Marketplace account indicates that you elected to receive notifications from the Marketplace via electronic mail. You confirmed that the email address listed in your account is correct.
- 4) You testified that you first became aware your Medicaid coverage was terminated on or around June 18, 2015, when you attempted to fill a prescription at your doctor's office. The record reflects that you updated the information in your Marketplace account on that same day.
- 5) You testified that you expect to file your 2015 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 6) The application that was submitted on June 18, 2015 listed annual household income of \$18,473.00. You testified that this amount is an accurate reflection of your expected income for the 2015 tax year.
- 7) Your application states that you will not be taking any deductions on your 2015 tax return.
- 8) Your application states that you live in Richmond County, New York.

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

Applicable Law and Regulations

Advance Premium Tax Credit

The advance premium tax credit (APTC) is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable poverty level (FPL) (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

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minus

2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

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).

Medicaid Renewal

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)).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, § 1115 Soc. Sec. Act; N.Y. Soc. Serv. Law § 364-j(1)(c); 18 NYCRR 360-10.3(h)).

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).

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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 is whether you were properly terminated from your Medicaid coverage and Medicaid Managed Care plan enrollment, effective May 31, 2015.

You were originally found eligible for Medicaid based on a household income of \$16,016.00 on June 24, 2014. This eligibility was effective June 1, 2014.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every twelve months 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.

The Marketplace's April 12, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage in 2015, and that you needed to supply additional information by May 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, the Marketplace issued a notice of eligibility determination on May 16, 2015, stating that you were no longer eligible for financial assistance, effective May 31, 2015.

On May 18, 2015, the Marketplace further issued a notice confirming that your Medicaid coverage would be terminated, effective May 31, 2015.

However, you testified, and the record reflects, that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the April 12, 2015 renewal notice informing you that your application needed to be updated. You further testified that you were not informed of the need to renew your eligibility until approximately June 18, 2015, when you were made aware that your Medicaid coverage was terminated.

You were entitled to notice of the need to renew your application, and there is no evidence to show that you received the emails which alerted you to documents having been uploaded to your account. Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to update your account, and the May 16, 2015 notice of eligibility determination is **RESCINDED**.

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However, the record reflects that you first renewed your eligibility for financial assistance through the Marketplace for 2015 on June 18, 2015, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice. The record further reflects that your expected household income changed between 2014 and 2015.

On June 19, 2015, the Marketplace issued an eligibility redetermination notice that stated that you were newly eligible to receive an advance premium tax credit of up to \$305.00 per month and, if you selected a silver level plan, for cost-sharing reductions, effective August 1, 2015. The notice further stated that you were not eligible for Medicaid because your household income of \$18,473.00 was over the allowable income limit.

Since you became aware of your Medicaid termination, and were issued a notice regarding a change in your financial assistance eligibility, as of June 19, 2015, it is proper to continue your Medicaid coverage until the end of the month in which you became aware of the change in your Medicaid eligibility. Therefore, the May 18, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth would end effective June 30, 2015.

The second issue is whether the Marketplace properly determined that you were eligible for an advance premium tax credit (APTC) of up to \$305.00 per month.

The application that was submitted on June 18, 2015 listed an annual household income of \$18,473.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file you 2015 income taxes as married filing jointly and will claim your son as a dependent on that tax return.

You reside in Richmond County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$372.40 per month.

An annual income of \$18,473.00 is 158.29% of the 2014 FPL for a one-person household. At 158.29% of the FPL, the expected contribution to the cost of the health insurance premium is 4.40% of income, or \$67.81 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$372.40 per month) minus your expected contribution (\$67.81 per month), which equals \$304.59 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you to be eligible for up to \$305.00 per month in APTC.

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The third issue is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$18,473.00 is 158.29% of the applicable FPL, the Marketplace correctly found you to be eligible for cost sharing reductions.

The fourth issue is whether the Marketplace properly determined that you were ineligible for Medicaid.

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 \$16,770.00 for a one-person household. Since \$18,473.00 is 156.95% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the June 19, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for up to \$305.00 per month in APTC, eligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The May 16, 2015 eligibility determination notice is RESCINDED.

May 18, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth would end effective June 30, 2015.

The June 19, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

Your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth are effective until June 30, 2015.

You remain eligible for up to \$305.00 in advance premium tax credits.

You are eligible for cost-sharing reductions.

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You are ineligible 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:
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- By fax: 1-855-900-5557

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Summary

The May 16, 2015 eligibility determination notice is RESCINDED.

May 18, 2015 disenrollment notice is MODIFIED to state that your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth would end effective June 30, 2015.

Your Medicaid coverage and Medicaid Managed Care Plan enrollment with EmblemHealth are effective until June 30, 2015.

The June 19, 2015 eligibility determination notice is AFFIRMED.

You remain eligible for up to \$305.00 in advance premium tax credits.

You are eligible for cost-sharing reductions.

You are ineligible for Medicaid.

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:

