



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003553

[REDACTED]

Dear [REDACTED],

On August 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 17, 2015 eligibility determination and February 20, 2015 disenrollment notice.

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).

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NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

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

Did the Marketplace properly determine on February 16, 2015 that you were no longer eligible to apply for or enroll in health insurance coverage through the Marketplace?

Did the Marketplace properly disenroll you from your Medicaid MetroPlus Health Plan, effective February 28, 2015?

Procedural History

On June 30, 2014, a notice previously sent to you was returned to the Marketplace as undeliverable.

On January 9, 2015, the Marketplace issued a notice stating that it was time for you to renew your health coverage for 2015 and that, based on information from federal and state sources, a determination could not be made about whether you qualified for financial help paying for your health coverage. The notice further stated that you must update the information in your Marketplace account by February 15, 2015, or the financial assistance you were receiving might end.

This notice was returned to the Marketplace on January 26, 2015 as undeliverable to the listed address.

No updates were made to your Marketplace account by February 15, 2015.

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On February 17, 2015, the Marketplace issued an eligibility redetermination notice stating that you were not eligible for Medicaid, Child Health Plus (CHP), tax credits or cost-sharing reductions. The notice further stated that you were not eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace. This determination was issued because “[y]ou did not respond to the renewal notice and did not complete your renewal within the required timeframe.” This notice was returned to the Marketplace on March 3, 2015 as undeliverable to the listed address.

On February 20, 2015, the Marketplace issued a disenrollment notice confirming that your Medicaid MetroPlus Health Plan coverage would terminate effective February 28, 2015.

This notice was returned to the Marketplace on March 4, 2015 as undeliverable to the listed address.

On May 4, 2015, the Marketplace received several revised applications in which you attested to a range of incomes of between \$16,068.00 and \$16,588.00.

Also on May 4, 2015, the Marketplace received four earnings statements issued to you by your employer, (████████████████████), during the month of April 2015.

On May 5, 2015, the Marketplace issued an eligibility redetermination notice stating that you while you were no longer eligible for Medicaid, your Medicaid coverage would continue until April 30, 2016. This determination was effective May 1, 2015.

Also on May 5, 2015, the Marketplace issued an enrollment notice confirming your enrollment in MetroPlus Health Plan. The notice further stated that “[y]our insurance coverage through Medicaid will begin May 1, 2015 and enrollment with MetroPlus Health Plan, Inc. will begin June 1, 2015.” This notice was returned to the Marketplace on May 18, 2015 as undeliverable to the listed address.

On June 9, 2015 the Marketplace issued a notice stating that you were not eligible for Medicaid, Child Health Plus (CHP), tax credits or cost-sharing reductions. The notice further stated that you were not eligible to enroll in a qualified health plan (QHP) at full cost through the Marketplace. This determination was issued because “[the Marketplace] sent you NY State of Health information, including notices about your eligibility and coverage, by U.S. mail to the mailing address provided in your account. However, this information was returned to the Marketplace as undeliverable.” The notice further instructed you to update your mailing address so you can remain eligible for health coverage through the Marketplace. It stated that your eligibility ended effective June 30, 2015.

This notice was returned to the Marketplace on June 18, 2015 as undeliverable to the listed address.

On June 10, 2015, the Marketplace issued a disenrollment notice confirming that your Medicaid MetroPlus Health Plan coverage would terminate effective June 30, 2015.

This notice was returned to the Marketplace on June 22, 2015 as undeliverable to the listed address.

On June 18, 2015, the Marketplace received a revised application in which you attested to an annual household income of \$16,068.00.

Also on June 18, 2015, you spoke with the Marketplace's Account Review Unit and appealed the February 17, 2015 eligibility determination and disenrollment from Medicaid as of February 28, 2015.

On June 19, 2015, the Marketplace issued an enrollment notice confirming your enrollment in MetroPlus Health Plan. The notice further stated that "[y]our enrollment with MetroPlus Health Plan, Inc. is effective August 1, 2015."

On June 20, 2015, the Marketplace issued an eligibility redetermination notice stating that as of June 18, 2015 you remained eligible for Medicaid, effective June 1, 2015.

On August 12, 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) You testified that when you submitted your initial application on March 21, 2014, you were assisted by a MetroPlus Health Plan representative at Kings County Hospital.
- 2) Each of your applications reflect that in each case, you provided a mailing address of [REDACTED]. However, either the ID proof address and/or the legal address was listed as [REDACTED].
- 3) You testified, and your application reflects, that you requested all notifications from the Marketplace to be issued to you electronically.

- 4) You testified that you did not receive any e-mails from the Marketplace, including the January 9, 2015 notice requesting that you update your account by February 15, 2015. You further testified that you did not receive this notice via regular U.S. Mail.
- 5) There is no indication that any action was taken by the Marketplace in response to the first returned piece of mail.
- 6) You testified that you only became aware that your Medicaid coverage had been terminated when during an April 2015 medical appointment for an evaluation and bloodwork, your doctor's office informed you that your Medicaid coverage had been cancelled. You further testified that you have outstanding bills in the amount of approximately \$425.00 relating to medical care you received during April of 2014.

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 12 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 first issue is whether the Marketplace properly determined that you were no longer eligible to apply for or enroll in health insurance coverage through the Marketplace as of February 16, 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 January 9, 2015, the Marketplace issued an annual eligibility redetermination notice in your case. The notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualify for financial help paying for your health coverage. You were asked to update the information in your NY State of Health account by February 15, 2015 or the financial help you were receiving might end.

This notice was uploaded to your account and an e-mail was sent advising you of the notice.

You testified that you did not receive an e-mail regarding that notification, nor did you receive the notification via U.S. Mail. The credible evidence of record

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reflects that virtually all notices issued, including the January 9, 2015 renewal notice, were returned to the Marketplace as undeliverable since the addressed listed on such notices was inconsistent with the mailing address you had specified in your application. There is no evidence in the file that would show that the Marketplace took any action when the first piece of mail was returned as undeliverable.

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. While the record does contain evidence that the notices were sent by regular mail after the failed electronic communication, such notices were routinely returned as undeliverable after having been sent to an address that you had not designated as the mailing address. 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 eligibility determination notice issued on February 17, 2015 is **RESCINDED**. The February 20, 2015 disenrollment notice confirming that your coverage under the Medicaid MetroPlus Health Plan was terminated effective February 28, 2015 is also **RESCINDED**.

Finally, the June 19, 2015 enrollment notice confirming that your coverage under the Medicaid MetroPlus Health Plan was effective August 1, 2015 is **MODIFIED** to state that such coverage is effective March 1, 2015.

Decision

The February 17, 2015 eligibility determination notice is **RESCINDED**.

The February 20, 2015 disenrollment notice is **RESCINDED**.

The June 19, 2015 enrollment notice is **MODIFIED** to state that Medicaid coverage under the MetroPlus Health Plan is effective March 1, 2015.

Effective Date of this Decision: October 27, 2015

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How this Decision Affects Your Eligibility

Your Medicaid coverage under the MetroPlus Health Plan continues in effect beginning March 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.

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

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The February 17, 2015 eligibility determination notice is RESCINDED.

The February 20, 2015 disenrollment notice is RESCINDED.

The June 19, 2015 enrollment notice is MODIFIED to state that Medicaid coverage under the MetroPlus Health Plan is effective March 1, 2015.

Your Medicaid coverage under the MetroPlus Health Plan continues in effect beginning March 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:

