



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003754

[REDACTED]

Dear [REDACTED],

On September 21, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 30, 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 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 Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003754

[REDACTED]

Issues

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

Did the Marketplace properly determine that you were eligible to receive \$0.00 per month in advance premium tax credit, effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for cost sharing reductions, effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid, effective July 1, 2015?

Procedural History

On December 24, 2015, the Marketplace issued a notice of eligibility determination that, in part, stated you were conditionally eligible for Medicaid, effective February 1, 2015, and need to submit documentation to confirm your citizenship status by March 15, 2015. The notice also stated that your spouse and child were eligible for Medicaid, effective February 1, 2015.

On January 2, 2015, you uploaded to your Marketplace account a copy of your New York State enhanced driver's license ([REDACTED]).

On January 3, 2015, the Marketplace issued a notice that more information regarding your household's income was needed for all three family members by January 20, 2015, in order to confirm that the household income on your application was accurate.

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On January 10, 2015, the Marketplace issued a notice of eligibility redetermination that, in part, stated you were conditionally eligible for Medicaid, effective January 1, 2015, and needed to submit documentation to confirm your citizenship status by April 4, 2015. The notice also stated that your spouse and daughter were eligible for Medicaid, effective January 1, 2015.

On February 27, 2015, you submitted multiple applications to the Marketplace in which you identified yourself as a U.S. Citizen and attested that your spouse's expected yearly income was \$79,000.00.

That same day, in response to each of your February 27, 2015 applications, the Marketplace prepared preliminary eligibility determinations that found you eligible for an advanced premium tax credit (APTC) of \$0.00, effective April 1, 2015. It also stated that in order to finalize your eligibility, you needed to provide documents to confirm that the information you provided in your application was accurate. Your spouse and child remained eligible for Medicaid, effective February 1, 2015. These determinations were issued based, in part, on an annual household income of \$79,000.00.

Also on that same day, you spoke with the Marketplace's Account Review Unit and appealed the February 27, 2015 preliminary eligibility determinations insofar as you were not found eligible for Medicaid. The Marketplace assigned an appeal number of AP000000001899 to this appeal.

On February 28, 2015, the Marketplace issued a notice of eligibility determination that was consistent with the February 27, 2015 preliminary determinations.

On March 23, 2015, the Marketplace issued a Notice of Telephone Hearing to advise you that the hearing you requested was scheduled for April 15, 2015 at 3:00 p.m.

On April 2, 2015, your request for aid to continue during the appeal process as granted under Medicaid and was made effective April 1, 2015, so that you had no gap in health insurance coverage.

On April 3, 2015, the Marketplace issued a notice of eligibility redetermination based on your request for aid to continue and found you eligible for Medicaid, effective April 1, 2015. The corresponding enrollment notice of the same date stated that your health insurance through Medicaid Fee-For-Service will begin April 1, 2015, and your enrollment with UnitedHealthcare of New York, Inc., a Medicaid Managed Care (MMC) plan, will begin May 1, 2015.

On April 15, 2015, you failed to appear by telephone for your scheduled hearing.

On April 21, 2015, the NY State of Health Appeals Unit issued a notice of dismissal stating that your appeal was dismissed because you failed to appear at the scheduled hearing.

On June 12, 2015, the Marketplace issued a notice of eligibility redetermination that you were newly eligible to receive advance premium tax credits of \$0.00 per month, effective July 1, 2015.

That same day, the Marketplace issued a disenrollment notice that your coverage under UnitedHealthcare of New York, Inc., your MMC plan, would end effective June 30, 2015.

On June 30, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible to receive \$0.00 per month of APTC, effective July 1, 2015, and needed to pick a plan.

That same day, the Marketplace issued an enrollment notice that, in part, stated you had not chosen a health plan yet.

On July 2, 2015, you spoke with the Marketplace's Account Review Unit and appealed the June 30, 2015 notice of eligibility redetermination insofar as you were again found eligible for APTC, effective July 1, 2015, and were no longer enrolled in the MMC plan. The Marketplace assigned a second appeal number to this appeal of AP000000003754.

On July 8, 2015, you submitted a written statement to the Marketplace.

On July 17, 2015, your request for aid to continue during this second appeal process was granted and coverage under your MMC plan was made effective retroactively to July 1, 2015, so that you had no gap in health insurance coverage (see Document [REDACTED] and Document [REDACTED]).

On August 29, 2015, the Marketplace issued a notice of eligibility redetermination that you are no longer eligible for Medicaid, but your coverage will continue until October 31, 2015. The corresponding enrollment notice of that date stated your coverage in your MMC plan was effective July 1, 2015, as noted on July 17, 2015 regarding aid to continue.

On September 21, 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.

On September 22, 2015, the Marketplace issued a notice of eligibility redetermination that you are eligible for advance premium tax credits and cost sharing reductions effective November, 10215.

A disenrollment notice of that same date was issued stating that your coverage with Your MMC plan will end effective October 31, 2015.

Findings of Fact

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your daughter as a dependent on that tax return.
- 2) You are seeking insurance for yourself through Medicaid.
- 3) On January 2, 2015, a copy of your NYS enhanced driver's license was uploaded to your Marketplace account as proof of citizenship (Document [REDACTED]).
- 4) The application that was submitted on January 5, 2015, listed you as a United States citizen and not a naturalized citizen.
- 5) That January 5, 2015 application listed an expected annual household income of \$13,625.00, which was verified by the Marketplace that same day (Document [REDACTED]). You testified that this was accurate at the time.
- 6) You further testified that your husband became employed in March 2015 and expected to earn \$79,000.00 this year, which you reported to the Marketplace on February 27, 2015.
- 7) On July 17, 2015, your citizenship was verified by the Marketplace and your Marketplace application was updated to reflect you are a Naturalized Citizen.
- 8) According to your Marketplace account, your failure to appear at a scheduled hearing resulted in the Marketplace discontinuing your aid to continue under your MMC plan as of June 30, 2015, and your eligibility for financial assistance was redetermined.
- 9) In your July 8 2015 written statement, you requested that the dismissal of your earlier appeal (AP000000001899) be vacated since you did not receive notice of the hearing.
- 10) On July 17, 2015, your request for additional aid to continue was granted and you had no gap in health insurance coverage.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expecting to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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)).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status is satisfactory.

If the Marketplace cannot verify an individual’s citizenship status, it must provide the individual a period of 90 days, from the date notice is received, to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

In the eligibility determination issued on December 24, 2014, you were advised that your eligibility was only conditional, and that you needed to confirm your citizenship status before February 1, 2015, which you did on January 2, 2015.

Further, the Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination. To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

The Marketplace issued an eligibility determination notice on January 6, 2015 that stated you were conditionally eligible for Medicaid effective January 1, 2015, and needed to submit documentation to prove your citizenship status. However, the record reflects that the Marketplace received your complete application for health insurance on January 2, 2015 when you uploaded a copy of your NYS enhanced driver’s license, which is an acceptable form of proof of citizenship. At that time, your annual household income was reported as \$13,625.00 for a three-person household.

The condition of your Medicaid eligibility was required to be determined within 45 days of your completed application on January 5, 2015, or by February 19, 2015. Since the

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Marketplace issued an eligibility determination more than 45 days from the date your application was considered complete, the June 12, 2015 notice of eligibility determination was untimely.

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 January 5, 2015 completed application, the relevant FPL was \$19,790.00 for a three-person household. Since \$13,625.00 is 68.85% of the 2014 FPL in effect, the Marketplace properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application as of that date.

Therefore, the January 10, 2015 notice of eligibility redetermination is MODIFIED to state that you are eligible for Medicaid, effective January 1, 2015, without condition.

Since you are entitled to 12 months of continuous coverage regardless of a change in income as of March 2015, your Medicaid eligibility remains in effect until December 31, 2015. Also, you had no gap in coverage throughout the year because the Marketplace ensured you had aid to continue, so nothing further is required of the Marketplace in this regard.

The eligibility redetermination notices issued on February 28, 2015, June 12, 2015, June 30, 2015 and September 22, 2015 are RESCINDED in part regarding the redeterminations of your eligibility for advance premium tax credits and cost sharing reductions. Similarly, the September 22, 2015 disenrollment notice is RESCINDED.

Decision

The January 10, 2015 notice of eligibility redetermination is MODIFIED to state that you are eligible for Medicaid, effective January 1, 2015, without condition and for twelve continuous months until December 31, 2015.

The eligibility redetermination notices issued on February 28, 2015, June 12, 2015, June 30, 2015 and September 22, 2015 are RESCINDED in part regarding the redeterminations of your eligibility for advance premium tax credits and cost sharing reductions.

The September 22, 2015 disenrollment notice is RESCINDED.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid effective January 1, 2015, without condition.

You are entitled to 12 months of continuous coverage through December 31, 2015.

All notices that are being rescinded in part or whole have to do with eligibility redeterminations for advance premium tax credits and cost sharing reductions, with the exception of the September 22, 2015 disenrollment notice, which is rescinded in its entirety.

The Marketplace has extended your aid to continue so you have no gap in coverage after October 31, 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:

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NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The January 10, 2015 notice of eligibility redetermination is MODIFIED to state that you are eligible for Medicaid, effective January 1, 2015, without condition.

The eligibility redetermination notices issued on February 28, 2015, June 12, 2015, June 30, 2015 and September 22, 2015 are RESCINDED in part regarding the redeterminations of your eligibility for advance premium tax credits and cost sharing reductions.

The September 22, 2015 disenrollment notice is RESCINDED.

You are eligible for Medicaid effective January 1, 2015, without condition.

You are entitled to 12 months of continuous coverage through December 31, 2015.

All notices that are being rescinded in part or whole have to do with eligibility redeterminations for advance premium tax credits and cost sharing reductions, with the exception of the September 22, 2015 disenrollment notice, which is rescinded in its entirety.

The Marketplace has extended your aid to continue so you have no gap in coverage after October 31, 2015.

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:

