



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: AP000000003787

[REDACTED]

Dear [REDACTED],

On September 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 3, 2015 enrollment 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 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

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003787

[REDACTED]

Issue

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

Did the Marketplace properly determine that your fee-for-service Medicaid was effective no earlier than March 1, 2015?

Procedural History

On January 14, 2015, the Marketplace received an application in which you attested to an expected yearly income of \$18,720.00

On January 15, 2015, the Marketplace issued an eligibility determination notice stating that you were newly eligible to receive an advance premium tax credit (APTC) of up to \$302.00 per month, newly eligible to receive cost-sharing reductions (CSR), and ineligible for Medicaid. This eligibility determination was effective February 1, 2015.

On that same date, the Marketplace issued a disenrollment notice confirming that your Medicaid coverage with WellCare of New York, Inc. would end effective January 31, 2015. This notice was issued because you were no longer eligible to remain enrolled in this plan.

Also on January 15, 2015, the Marketplace issued a notice confirming your enrollment in a gold-level qualified health plan and a stand-alone dental plan. The notice stated that your coverage could begin as soon as February 1, 2015, provided your first premium payment was received.

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On January 29, 2015, your application was updated; on January 30, 2015, the Marketplace issued a notice stating that it had insufficient evidence to make a determination, and directing you to submit income documentation.

On January 31, 2015, the Marketplace issued a disenrollment notice confirming that your coverage under the gold-level qualified health plan and stand-alone dental plan would end effective February 28, 2015.

On February 14, 2015, the Marketplace received several revised applications in which you attested to an expected yearly income of \$6,000.00. In response to these applications, on February 15, 2015, the Marketplace issued a notice stating that more information was needed to confirm your eligibility. It requested income documents by March 4, 2015 in order to make a determination.

Also on February 14, 2015, the Marketplace received a letter from you stating, among other things, that you were no longer employed by [REDACTED] and that your last day of employment was October 1, 2013. This letter also stated that you had no income for 2015, and that you started a business, [REDACTED] during March 2015. Also included within this letter were several documents which reflected an estimate of your income and expenses with [REDACTED]. You also stated in this letter that the last income you received was from your unemployment benefits, which ceased on August 2014.

On March 9, 2015, the Marketplace received a fully-executed Separation Agreement between you and [REDACTED]

On March 20, 2015, the Marketplace received a revised application in which you attested to an income of \$0.00, and that you were seeking help with paying for medical bills from the previous three months.

On March 21, 2015, the Marketplace issued an eligibility redetermination notice based on the March 20, 2015 application. The notice stated that you remained eligible for Medicaid, effective March 1, 2015. The notice further advised you to select a new health plan.

Also on March 21, 2015, the Marketplace issued a notice confirming your enrollment in Hudson Health Plan, Inc. The notice further stated that your coverage through Medicaid would begin on March 1, 2015 and your enrollment with Hudson Health Plan, Inc. would begin May 1, 2015.

On April 3, 2015, the Marketplace issued a cancellation notice confirming your request to cancel your insurance through Hudson Health Plan, Inc. on April 2, 2015. It further confirmed that you would not have coverage under Hudson Health Plan, Inc.

Also on April 3, 2015, the Marketplace issued a notice confirming your enrollment in WellCare. The notice further stated that your coverage through Medicaid would begin on March 1, 2015 and your enrollment with Wellcare would begin May 1, 2015.

On April 6, 2015, the Marketplace received a letter from [REDACTED] confirming that you worked as a full-time [REDACTED] from October 1, 2012 through October 1, 2013.

On July 6, 2015, you spoke to the Marketplace's Account Review Unit and appealed the April 3, 2015 enrollment notice insofar as you had not been found eligible for retroactive Medicaid coverage during February 2015.

On September 28, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During that hearing, you provided the Appeals Unit with (1) copies of your Official Record of Benefit Payment History issued by the NYS Dept. of Labor reflecting unemployment benefits you received between October 29, 2013 and August 11, 2014, and (2) a summary sheet identifying payments you received as an independent contractor from [REDACTED] [REDACTED] between October 31, 2014 and April 23, 2015. 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 expect to file your 2015 federal income tax return as single, and claim no dependents.
- 2) You testified that you are seeking retroactive coverage through fee-for-service Medicaid for the month of February 2015.
- 3) While the Marketplace issued enrollment notices on March 21, 2015 and April 3, 2015 that confirmed that you were eligible for Medicaid fee-for-service coverage effective March 1, 2015, the record does not contain a notice stating that your request for retroactive Medicaid fee-for-service coverage during February 2015 had been denied.
- 4) You were found eligible to enroll in a qualified health plan (QHP) and received an advance premium tax credit (APTC) and cost-sharing reductions, effective February 1, 2015.
- 5) You enrolled in a gold-level QHP and a stand-alone dental plan, with such coverage to begin February 1, 2015.

- 6) You testified that you did not pay any premium amounts in connection with either the gold-level QHP or stand-alone dental plan.
- 7) Your coverage under the gold-level QHP or stand-alone dental plan was cancelled effective February 28, 2015.
- 8) You testified that you never made a premium payment to the insurance carrier for coverage under the gold-level QHP.
- 9) On March 20, 2015, you revised your application to reflect an income of \$0.00, and requested help with paying for medical bills from the last three months.
- 10) On March 21, 2015, the Marketplace issued a notice finding you eligible for Medicaid, effective March 1, 2015
- 11) On February 14, 2015, you provided documents to the Marketplace reflecting that (1) you were employed by [REDACTED] on an independent contractor basis at a rate of \$15.00 per hour and that you worked 40 hours per week and (2) you incurred approximately \$1,255.44 per month in various expenses relating to your business, which included: auto loan with [REDACTED], auto insurance, [REDACTED] cell phone, space rental storage, gasoline and food. You also provided documentation reflecting that your business incurred various expenses relating to [REDACTED], but these documents do not indicate what months these fees were paid by you.
- 12) Your employment with [REDACTED] ended on October 1, 2013.
- 13) On September 28, 2015, you provided documents reflecting that you filed an unemployment claim on or about October 14, 2013 and were awarded \$405.00 per week in benefits beginning October 29, 2013. Your unemployment benefits were exhausted on August 10, 2014.
- 14) On September 28, 2015, you provided an earning statement summary reflecting that [REDACTED] compensated you (1) \$436.00 on February 6, 2015, (2) \$360.00 on February 13, 2015, (3) \$360.00 on February 16, 2015 and (4) \$360.00 on February 26, 2015.
- 15) You testified that you were seeking Medicaid fee-for-service coverage for the month of February 2015.

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

Applicable Law and Regulations

De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Marketplace Eligibility Determinations

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)).

The Marketplace is required to provide “timely written notice to an applicant of any eligibility determination” made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)).

An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Legal Analysis

You submitted an application on March 20, 2015 in which you attested that you were seeking help with paying for medical bills from the last three months. The Marketplace issued an eligibility determination on March 21, 2015 based on that application. However, while the Marketplace found that you were eligible for Medicaid coverage effective March 1, 2015, it did not make a determination on your request to seek Medicaid coverage for the three months prior to your application.

Although the Marketplace did not issue a timely notice of eligibility determination with respect to your request for Medicaid coverage for the three months prior to your application, this does not prevent the Appeals Unit from reaching the merits of your case on your July 6, 2015 appeal request. Under 45 CFR § 155.505(b), you are as entitled to appeal a Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, since the Appeals Unit reviews of Marketplace determinations on a de novo basis, no deference would have been granted to that written determination had it been issued before you filed your appeal.

The second issue is whether the Marketplace properly determine that your fee-for-service Medicaid was effective no earlier than March 1, 2015.

You are in a one-person household; you file your taxes with a tax filing status of single and claim no dependent on your tax return.

You were initially found eligible for Medicaid in the March 21, 2015 eligibility determination notice. According to this notice, your coverage with Medicaid began March 1, 2015.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the month of February 2015

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in February 2015, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,353.55 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during February 2015.

You provided documentation reflecting that you received \$1,515.00 in income from [REDACTED] on an independent contractor basis during February 2015. You also provided documentation that you incurred \$1,255.44 per month in various expenses, which included: auto loan with [REDACTED], auto insurance, [REDACTED] cell phone, space rental storage, gasoline and food. However, the documentation you provided does not contain any indication on what portion of these expenses relate solely to your business for which you are seeking to claim as a deduction in order to reduce your gross income. Accordingly, we are unable to apply these expenses to your monthly Medicaid analysis for the month of February 2015.

Therefore, for the month of February 2015, the credible evidence of record reflects that your income was \$1,515.00. Since your income of \$1,515.00 was more than the \$1,353.55 Medicaid limit for February 2015, you were not eligible for retroactive Medicaid coverage for the month of February 2015.

Decision

The March 21, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: December 10, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid effective 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

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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 March 21, 2015 eligibility determination is AFFIRMED.

You are eligible for Medicaid effective 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:

