



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: AP000000003799

[REDACTED]

Dear [REDACTED],

On September 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 26, 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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Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003799

[REDACTED]

Issue

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

Did the Marketplace properly determine that you are not eligible to receive financial assistance or to enroll in a qualified health plan at full cost through the Marketplace?

Procedural History

On June 25, 2015 you submitted an application for health insurance through the Marketplace.

On June 26, 2015 the Marketplace issued an eligibility determination notice that you are not eligible for financial assistance or to enroll in a qualified health plan at full cost through the Marketplace. The notice states that “[b]ased on information from federal and state data sources, we have determined that you are already enrolled in or eligible for a public insurance program such as Medicare.”

On July 6, 2015 the Marketplace received your appeal request.

On September 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. The record was developed during that hearing and the record was left open until September 18, 2015.

On September 16, 2015 a two-page fax was sent to the Marketplace Appeals Unit on your behalf. That fax has been marked as “Appellant Exhibit A” and has been entered into the record. The record is now complete and closed.

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Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself (6/25/2015 Marketplace Application).
2. You plan on filing a 2015 federal income tax return with the tax status of single and will not claim any dependents on that return (6/25/2015 Marketplace Application).
3. You receive \$1,200.00 monthly in Social Security Benefits (6/25/2015 Marketplace Application).
4. You testified that you are currently enrolled in Medicare Part A and have been enrolled since June 2009.
5. You testified that you want to be enrolled in health insurance through the Marketplace.
6. On September 16, 2015 your physician, [REDACTED] faxed a statement to the Marketplace Appeals Unit stating that “[m]edical coverage is crucial to my patient’s health and well being” (Appellant Exhibit A, p. 2).

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

Applicable Law and Regulations

Medicaid

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-Medicaid through the Marketplace is determining if he or she meets certain nonfinancial criteria. In general, to qualify Medicaid through the Marketplace you must be fall into one of the modified adjusted gross income (MAGI eligibility groups:

- An adult aged 19-64, not eligible for Medicare;
- A pregnant woman or infant;

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A child aged 1-18; or
A parent or caretaker relative

If you fall into one of these eligibility groups, then the Marketplace determines your eligibility for Medicaid using your modified adjusted gross income (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If you do not fall into one of these categories you may be eligible for non-MAGI-based Medicaid coverage through the Local Department of Social Services or the New York City Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

Qualified Health Plan

It is unlawful for a person to sell or issue to an individual entitled to benefits under Medicare Part A Medicare Part B with the knowledge that the policy duplicates health benefits to which the individual is entitled (42 U.S. Code § 1395ss(d)(3)(A); http://www.cms.gov/Medicare/Eligibility-and-Enrollment/Medicare-and-the-Marketplace/Downloads/Medicare-Marketplace_Master_FAQ_8-28-14_v2.pdf [last updated August 28, 2014]).

Legal Analysis

The first issue is whether the Marketplace properly determined you not eligible for Medicaid through New York State of Health.

To be eligible for Medicaid through the Marketplace, a person cannot be entitled to Medicare Part A benefits. You testified that you were enrolled in Medicare Part A as of June 2009. Therefore, you do not meet the nonfinancial requirements in the law to be eligible for Medicaid through the Marketplace.

The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at www.nyc.gov/html/hra/html/home/home.shtm.

The second issue is whether the Marketplace properly determined you not eligible for to enroll in qualified health plan at full cost.

In order to avoid the sale or issuance of duplicate coverage to Medicare beneficiaries, the Marketplace is prohibited from selling or issuing health coverage to an individual who is entitled to Medicare Part A or Part B benefits. Since you credibly testified that you have been enrolled in Medicare Part A since

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June 2009, you are not eligible to enroll in a qualified health plan at full cost through the Marketplace.

Therefore, the June 26, 2015 eligibility determination notice that you are not eligible for Medicaid or to enroll in a qualified health plan at full cost through the Marketplace is AFFIRMED.

Decision

The June 26, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You do not qualify for Medicaid through New York State of Health Marketplace.

You do not qualify to purchase a qualified health plan at full cost through the Marketplace.

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
- By mail at:
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Summary

The June 26, 2015 eligibility determination notice is AFFIRMED.

You do not qualify for Medicaid through New York State of Health Marketplace.

You do not qualify to purchase a qualified health plan at full cost through the Marketplace.

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:

