



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003831

[REDACTED]

Dear [REDACTED],

On October 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 22, 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 (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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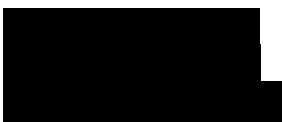


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003831



Issue

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

Did the Marketplace properly determine that you were not eligible for reimbursement of your Medicare Part B premiums?

Procedural History

On March 29, 2014, the Marketplace issued a notice of eligibility determination that stated you were eligible for Medicaid, effective March 1, 2014.

On April 1, 2014, the Marketplace issued a notice confirming your enrollment in a Medicaid Managed Care plan, effective May 1, 2014.

On September 11, 2014, documents were uploaded to your Marketplace account, which included a confirmation receipt of your September 4, 2014 application for Medicare Part A and Part B, and a receipt that your application for Social Security benefits was received.

On October 6, 2014, the Marketplace issued a disenrollment notice stating that your Medicaid Managed Care plan enrollment was terminated, effective October 31, 2014, because you were no longer eligible to remain enrolled in that plan.

On January 9, 2015, the Marketplace sent you a notice stating that it was time to renew your application for health insurance. The notice stated that you no longer qualified for health care coverage through the Marketplace because you were already enrolled in Medicare, effective March 1, 2015.

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On February 18, 2015, the Marketplace issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage would be discontinued as of February 28, 2015.

On July 9, 2015, you spoke with the Marketplace's Account Review Unit and appealed the Marketplace's denial of your request reimbursement of your Medicare Part B premiums.

On July 22, 2015, the Marketplace issued a notice of eligibility determination confirming that you were not eligible to receive reimbursement of your Medicare Part B premiums. The notice further stated that you were not eligible because "a person must apply for benefits which can reduce or end the person's need for reimbursement of Medicare Part B premiums"; however, you elected to receive your health insurance benefit and not your Social Security retirement benefit.

On October 1, 2015, supporting evidence was uploaded to your Marketplace account, prior to your scheduled hearing. This evidence included: a copy of the April 1, 2014 notice issued by the Marketplace; a notice issued by the Social Security Administration confirming your enrollment in Medicare Part A and Part B; a copy of the October 6, 2014 notice issued by the Marketplace; a copy of the January 9, 2015 notice issued by the Marketplace; a copy of the February 18, 2015 notice issued by the Marketplace; copies of your Medicare Part B premium invoices dated March 27, 2015 and May 27, 2015; a notice issued by the Social Security Administration confirming that the State of New York will no longer pay your Medicare Part B premiums after January 2015; a notice of eligibility determination issued by your local Department of Social Services discontinuing your Medicaid coverage effective May 1, 2015; a copy of your UnitedHealthcare insurance card; and a notice issued by UnitedHealthcare confirming your enrollment through Medicare, effective May 1, 2015. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record.

On October 2, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. The record was developed during the hearing and left open until October 19, 2015 to provide you an opportunity to submit additional supporting evidence.

On October 12, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included: a letter confirming your employment with [REDACTED]; a copy of your Medicare Part A and Part B insurance card; a copy of the previously submitted notice issued by UnitedHealthcare confirming your enrollment through Medicare; a copy of your UnitedHealthcare insurance card; a copy of your handwritten notes; a copy of the February 18, 2015 notice issued by the Marketplace; a copy of the January 9, 2015 notice issued by the Marketplace; a copy of the notice of eligibility determination issued by your local Department of Social Services discontinuing your Medicaid coverage effective May 1, 2015; a copy of the July 22, 2015 notice issued by the Marketplace; a copy of the notice

issued by the Social Security Administration confirming your enrollment in Medicare Part A and Part B; a notice issued by the Social Security Administration confirming that the State of New York will no longer pay your Medicare Part B premiums after January 2015; a copy of your Medicare Part B premium invoice dated March 27, 2015; a copy of a notice issued by the Social Security Administration refunding your excess premiums for medical insurance; and a copy of the refund check issued by the Social Security Administration. These documents were collectively marked as Appellant's Exhibit 2 and incorporated into the record. The record was closed on October 19, 2015.

Findings of Fact

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

- 1) The record reflects that you were enrolled in Medicaid coverage through the Marketplace, effective March 1, 2014 to February 28, 2015.
- 2) The record reflects that you turned 65 years old on [REDACTED]. You testified that, although you became eligible to receive Social Security retirement benefits at that time, you understood that you would not be eligible for the full Social Security retirement benefit amount until September 2015. You further testified that you elected to postpone collection of your Social Security retirement benefits in lieu of returning to work to maximize your future monthly retirement benefit.
- 3) You provided evidence, that you are currently employed at [REDACTED] [REDACTED] as of October 22, 2014 (Appellant's Exhibit 2, October 15, 2015).
- 4) The record reflects that a document confirming your application for hospital insurance only through the Social Security Administration was uploaded to your Marketplace account on September 11, 2014. According to this confirmation, you also elected to enroll in Medicare Part B.
- 5) You testified that you have been enrolled in Medicare Part A and Part B as of August 1, 2014 (Appellant's Exhibit 2, October 15, 2015).
- 6) According to the evidence provided, your Medicaid coverage through your local Department of Social Services was discontinued effective May 1, 2015 because you failed to verify that you had applied for Social Security benefits (Appellant's Exhibit 2, October 15, 2015).
- 7) The Marketplace determination issued on July 22, 2015 indicated that the reason your request for reimbursement of your Medicare Part B premiums

was denied was because you elected to defer collection of your Social Security retirement benefits.

- 8) According to the evidence provided, the Social Security Administration issued a notice on September 14, 2015, which stated, "The State of New York will pay the premiums for your Medicare coverage beginning October 2014" (Appellant's Exhibit 2, October 15, 2015). The Social Security Administration also issued a notice on March 26, 2015, which stated, "The State of New York will no longer pay your Medicare Part B (medical insurance) premiums after January 2015" (Id.).
- 9) You testified that you received reimbursement for one month of your Medicare Part B premiums, but cannot recall for which month.
- 10) You are seeking reimbursement for your Medicare Part B premiums for the months of October 2014 to March 2015.

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

Applicable Law and Regulations

The state or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (42 USC § 1396a(a)(25)). Third parties include health insurers, self-insured plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (*id.*).

"The [Medicaid] program will pay on behalf of qualified Medicare beneficiaries ... the full amount of any deductible and coinsurance costs incurred under Part A or B of Title XVIII of the Social Security Act (Medicare)" (18 NYCRR § 360-7.7(a)).

"Payment of Medicare part B premiums will be made by the [Medicaid] program if the recipient is: enrolled in a voluntary insurance program under Medicare part B; receiving cash grants as an eligible recipient of public assistance; receiving chronic care in a medical institution; receiving care in a public home; or a qualified Medicare beneficiary... [or] a specified low income Medicare beneficiary" (18 NYCRR § 360-7.8(b)).

In order to qualify for benefits under the Medicaid program, such as payment of Medicare part B premiums, beneficiaries must pursue any potential income and resources that may be available, and "take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so" (18 NYCRR § 360-2.3(c)(1));

42 CFR 435.608(a); GIS 13 MA/005 (March 2013)). Such potential income and resources include Social Security benefits (GIS 13 MA/005 (March 2013)).

Legal Analysis

The matter at issue is whether the Marketplace properly determined that you were not eligible for reimbursement by the Medicaid program for your Medicare Part B premiums.

On March 29, 2014, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid, effective March 1, 2014.

The record reflects that you turned 65 years old on [REDACTED], and were enrolled in Medicare Part A and Part B, effective August 1, 2014.

The record contains a notice issued by the Social Security Administration on September 15, 2014 stating that the State of New York will pay the premiums for your Medicare coverage beginning October 2014. However, NY State of Health is a separate entity from the Social Security Administration, and, therefore, is not governed by external communications prepared independently from the Marketplace. Since this notice was not issued by NY State of Health, it cannot be reviewed here.

In a July 22, 2015 notice, the Marketplace denied reimbursement of your Medicare Part B premiums on grounds that you elected to receive your Medicare benefits, but not your Social Security retirement benefit.

In order to qualify for reimbursement of Medicare Part B premiums, Medicaid recipients must apply for any potentially available income, including Social Security retirement benefits.

You credibly testified, and the record reflects, that you elected to postpone collection of your Social Security retirement benefits for one year in order to maximize your monthly benefit amount. You further provided evidence that you returned to work in October 2014.

Since you were eligible to receive Social Security retirement benefits in September 2014, but you elected to postpone collection of these benefits, the Marketplace properly determined that you did not qualify for reimbursement of your Medicare Part B premiums by the Medicaid program.

The Marketplace's July 22, 2015 eligibility determination was correct and is **AFFIRMED**.

Decision

The July 22, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You were not eligible for reimbursement of your Medicare Part B premiums for the months of October 2014 to March 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

The July 22, 2015 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

You were not eligible for reimbursement of your Medicare Part B premiums for the months of October 2014 to March 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:

