



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

Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003904

[REDACTED]

Dear [REDACTED],

On September 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 2, 2015 and July 15, 2015 eligibility determinations.

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).

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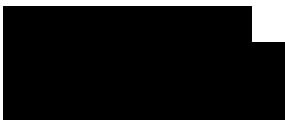


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P.O. Box 11729
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Issue

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

Did the Marketplace properly determine that your spouse was no longer eligible for Medicaid, effective May 31, 2015?

Did the Marketplace properly determine that your spouse was not eligible for continuous Medicaid coverage as of July 15, 2015?

Procedural History

On December 10, 2014, the Marketplace issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid, effective December 1, 2014. The notice further requested that you provide documentation confirming his immigration status and his Social Security number before March 11, 2015, or he might lose his financial assistance or eligibility to enroll in insurance through the Marketplace.

Also on December 10, 2014, the Marketplace issued a notice confirming your spouse's enrollment in a Medicaid managed care plan, effective January 1, 2015. The notice again requested that you provide documentation confirming his immigration status and Social Security number before March 11, 2015.

On January 28, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse remained conditionally eligible for Medicaid, effective as of January 1, 2015. The notice again requested that you

provide documentation confirming his immigration status and Social Security number before March 11, 2015.

On January 29, 2015, the Marketplace issued a notice confirming your spouse's enrollment in a Medicaid managed care plan, effective January 1, 2015. The again further requested that you provide documentation confirming his immigration status and Social Security number before March 11, 2015.

On May 2, 2015, the Marketplace issued a notice of eligibility redetermination stating that your spouse was no longer eligible to enroll in health insurance through the Marketplace because you had not confirmed your spouse's Social Security number. Your spouse's eligibility for coverage ended effective May 31, 2015.

On May 4, 2015, the Marketplace issued a notice that stated your spouse's enrollment in his Medicaid managed care plan was terminated effective May 31, 2015.

On July 15, 2015, the Marketplace received your modified application for health insurance, which included your spouse's Social Security number and updated income information. That day, a preliminary eligibility determination was prepared with regard to the last application, stating that your spouse was eligible to receive an advance premium tax credit of up to \$36.00 per month, effective August 1, 2015.

Also on July 15, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as it did not continue your spouse's Medicaid eligibility.

On July 16, 2015, the Marketplace issued a notice of eligibility determination based on the information contained in the July 15, 2015 application, stating that your spouse was eligible to receive an advance premium tax credit of up to \$36.00 per month. The notice further stated that your spouse is not eligible for Medicaid because your household income of \$44,500.00 was over the allowable income limit.

On September 25, 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 support the following findings of fact:

- 1) You testified that you are only appealing your spouse's eligibility.

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- 2) You testified that you expect to file your 2015 federal income tax return jointly with your spouse, and will claim no dependents on that tax return.
- 3) Your spouse first became conditionally eligible for Medicaid on December 10, 2014 based in part on an expected household income of \$7,800.00.
- 4) You testified that when you submitted your initial application for health insurance, you did not have your spouse's Social Security number. You further testified that your spouse received his Social Security number in April 2015.
- 5) Your Marketplace account indicates that you receive notices from the Marketplace via regular mail.
- 6) You testified that you did not receive any notices in the mail regarding the need to provide proof of your spouse's immigration status or Social Security number and, therefore, were unaware that you must submit his Social Security number to the Marketplace once it was obtained.
- 7) No notices sent to you at the address listed on your Marketplace account have been returned as undeliverable.
- 8) There is no evidence in the record that the Marketplace received your spouse's Social Security number, or documentation that he had applied for a Social Security Number, before March 11, 2015.
- 9) The record reflects that your spouse's Social Security number was submitted on July 15, 2015. The record further reflects that your household income was updated on that date, indicating an expected household income of \$44,500.00. You confirmed that your household income changed in May 2015.
- 10) You and your spouse reside in Kings County.
- 11) You are seeking reinstatement of your spouse's continuous Medicaid coverage.

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

Applicable Law and Regulations

Medicaid

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 \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

In addition to the financial criteria, a person must meet certain nonfinancial criteria (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. Generally, no person except a United States citizen, naturalized citizen, qualified alien, or person permanently residing in the United States under color of law (PRUCOL) is eligible for full Medicaid benefits (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2).

Medicaid must be provided to eligible residents of the United States who are citizens of the United States or national of the United States, and they have provided satisfactory documentary evidence of citizenship or national status (42 CFR § 435.406(a)(1)).

Medicaid applicants must also provide a social security number or documentation that such person has applied for a social security number (18 NYCRR § 360-3.2(j)(3)(i)(b)).

A “person whose eligibility for medical assistance is based on the modified adjusted gross income of the person or the person's household, and who loses eligibility for such assistance for a reason other than citizenship status, lack of state residence, or failure to provide a valid social security number, before the end of a twelve month period beginning on the effective date of the person's initial eligibility for such assistance, or before the end of a twelve month period beginning on the date of any subsequent determination of eligibility based on modified adjusted gross income, shall have his or her eligibility for such assistance continued until the end of such twelve month period, provided that federal financial participation in the costs of such assistance is available” (NY Soc Serv L § 366(4)(c)).

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Legal Analysis

The first issue under review is whether the Marketplace properly determined that your spouse was no longer eligible for Medicaid through the Marketplace, effective May 31, 2015.

An individual seeking enrollment in Medicaid must have, and be able to demonstrate, satisfactory citizenship or immigration status, and provide a Social Security number or documentation that such person has applied for a Social Security number. The Marketplace provided your spouse *conditional* eligibility for Medicaid on December 10, 2014 and January 28, 2015, pending the production of evidence of his immigration status and Social Security number by March 11, 2015.

You testified that you did not receive any notices from the Marketplace informing you that you must provide proof of your spouse's immigration status or Social Security number. However, the record indicates that the notices were issued to the address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable.

The record reflects that the Marketplace did not receive the requested immigration documentation, Social Security number, or documentation confirming that your spouse had applied for a Social Security number, before the deadline.

When you failed to provide that documentation, the Marketplace could not confirm your spouse's entitlement to Medicaid benefits and so it properly terminated your spouse's Medicaid eligibility and Medicaid Managed Care plan enrollment effective May 31, 2015.

Therefore, the May 2, 2015 notice stating that your spouse was no longer eligible for coverage because you had not provided his Social Security number was correct when it was issued and is AFFIRMED.

The second issue is whether your spouse should have been eligible for continuous Medicaid coverage as of July 15, 2015.

Under New York State law, once a person is fully eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL, unless such eligibility is lost for citizenship status, lack of state residence, or failure to provide a valid social security number.

As previously established, the December 10, 2014 and January 28, 2015 notices of eligibility determination stated that your spouse was conditionally eligible for

Medicaid, pending the production of evidence of his immigration status and Social Security number.

You failed to provide this requested information before the deadline, and your spouse's Medicaid eligibility could not be confirmed.

Your spouse's Social Security number was furnished on July 15, 2015, and your application was updated to reflect an expected household income of \$44,500.00. The eligibility determination relied upon that information.

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 federal poverty level (FPL) for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$44,500.00 is 279.35% of the 2015 FPL, the Marketplace properly found your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since your spouse's original Medicaid eligibility was conditional, the continuous coverage provision did not apply in relation to the July 15, 2015 application, which listed a household income above 138% of the FPL, and your spouse was ineligible for "continuous coverage." Moreover, continuous coverage does not apply where eligibility is lost because of citizenship status. Therefore, the July 16, 2015 notice of eligibility determination is AFFIRMED.

Decision

The May 2, 2015 eligibility determination notice is AFFIRMED.

The July 16, 2015 eligibility determination notice is AFFIRMED

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

This decision does not change your spouse's eligibility.

Your spouse is not eligible for continuous Medicaid coverage.

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 May 2, 2015 eligibility determination notice is AFFIRMED.

The July 16, 2015 eligibility determination notice is AFFIRMED

This decision does not change your spouse's eligibility.

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Your spouse is not eligible for continuous Medicaid coverage.

Legal Authority

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A Copy of this Decision Has Been Provided To:

