



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

Notice of Decision

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003974

[REDACTED]

Dear [REDACTED]

On October 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 22, 2015 enrollment confirmation 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 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

Decision Date: November 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003974

[REDACTED]

Issue

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

Did the Marketplace properly determine that your enrollment in a Medicaid Managed Care plan should be effective September 1, 2015?

Procedural History

According to the March 30, 2014 introductory notice, you elected to receive all information from New York State of Health electronically. The notice stated that this meant all important notifications will be sent to you electronically, and the Marketplace will notify you of any new information via text message, email, or other electronic communication.

According to your Marketplace account, you had Medicaid beginning March 1, 2014 through June 30, 2015.

On May 14, 2015, the Marketplace issued a renewal notice that, based on federal and state data sources, a decision could not be made about whether or not you qualify for financial help paying for your health coverage. The notice directed you to update the information on your Marketplace account by June 15, 2015 or you might lose the financial assistance you were currently receiving.

As of June 15, 2015, the information on your Marketplace account had not been updated.

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On June 17, 2015, the Marketplace issued a notice of eligibility redetermination that you are not eligible for Medicaid or other financial assistance and cannot enroll in a qualified health plan at full cost through the Marketplace. The reason stated was because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. The notice further stated that, as a result, you no longer qualify to receive financial assistance and your eligibility will end effective June 30, 2015.

On June 18, 2015, the Marketplace issued a disenrollment notice that your coverage with United Healthcare of New York Inc., a Medicaid Managed Care (MMC) plan, would end effective June 30, 2015.

On July 21, 2015, the Marketplace prepared a preliminary eligibility redetermination, based on updated information it had received, and found you eligible for Medicaid, effective July 1, 2015, and your enrollment in the MMC plan you selected would begin September 1, 2015.

That same day, you spoke to the Marketplace's Account Review Unit and appealed the start date of your MMC plan of September 1, 2015, because you wanted it effective July 1, 2015.

On July 22, 2015, the Marketplace issued a notice of eligibility redetermination and enrollment notice that were consistent with the preliminary findings made on July 21, 2015.

On October 5, 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, and your Marketplace account reflects, that you originally had requested information be sent to you electronically.
- 2) You testified that you have not been able to access your online Marketplace account since 2014 because you had been frozen out and remained unable to access it at the time of the hearing.
- 3) You testified that you did not receive a renewal notice from the Marketplace regarding the need to update your information to ensure that your coverage would not be interrupted.
- 4) Your Marketplace account indicates that all of the notices issued remain unopened.

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- 5) You testified that you first became aware you were disenrolled from your Medicaid Managed Care (MMC) plan when you went to the dentist on July 21, 2015.
- 6) You testified that you updated the information in your Marketplace Account that same day via telephone and reported an expected annual household income of \$14,000.00 and requested that information be sent via regular mail.
- 7) You testified that you reenrolled in a similar MMC plan through the same insurer that you had last year, but you want coverage in that plan to be backdated to July 1, 2015 because you received medical treatment that month.

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

Applicable Law and Regulations

Medicaid Renewal

In general, the Marketplace must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

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Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue is whether the Marketplace properly determined that your enrollment in your Medicaid Managed Care (MMC) plan was effective September 1, 2015.

You were originally found eligible for retroactive Medicaid for three months based on a household income of \$8,207.00 on March 29, 2014. This eligibility was effective March 1, 2014. You were also determined Medicaid eligible as of July 1, 2014 through June 30, 2015 and were enrolled in an MMC plan with United Healthcare of New York, Inc.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every twelve months eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. The Marketplace's May 14, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage in 2015, and that you needed to supply additional information by June 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, your coverage was terminated under your Medicaid Managed Care plan effective June 30, 2015.

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You credibly testified that you did not receive the May 14, 2015 renewal notice asking you to update your Marketplace application.

You further credibly testified that you did not receive notice of the June 17, 2015 eligibility redetermination notice or the June 18, 2015 disenrollment notice.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice has been posted to your account.

The May 14, 2015 renewal notice was posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that it was available in

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your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You were entitled to notice of the need to renew your application, and there is no evidence to show that you received the emails which would have alerted you to review documents that had been uploaded to your account. Further, your Marketplace account Inbox shows that you had not accessed the notices, which is consistent with your testimony that you still cannot access your Marketplace account and read electronic notices. Therefore, it is found that the Marketplace improperly disenrolled you from your MMC plan without proper notice.

Notwithstanding, the record reflects that, on July 21, 2015, you spoke to the Marketplace and verbally updated the information in your Marketplace account.

The record reflects that your expected household income changed between 2014 and 2015. You reported a household income of \$14,000.00 for 2015, which remains below the applicable threshold amount of \$16,243.00 (138% of the 2015 FPL of \$11,770.00). The record also reflects that you reenrolled in a similar MMC plan offered by United Healthcare of New York, Inc. for 2015 that you were covered under in 2014.

On July 22, 2015, the Marketplace issued an eligibility redetermination notice that stated that you were eligible for Medicaid effective July 1, 2015 and your enrollment in United Healthcare Community Plan, an MMC plan, would begin September 1, 2015.

Since your eligibility for Medicaid never lapsed, your income remained within the allowable income limit, and you reenrolled into a similar MMC plan offered by the same insurer, United Healthcare of New York, Inc., which MMC plan you would have likely been reenrolled in had your plan not been terminated, the July 22, 2015 enrollment confirmation notice is MODIFIED to state that the enrollment in your MMC plan was effective July 1, 2015.

Decision

The July 22, 2015 enrollment confirmation notice is MODIFIED to state that the enrollment in your MMC plan was effective July 1, 2015.

Your case is RETURNED to the Marketplace to effectuate this change to your Marketplace account.

Effective Date of this Decision: November 16, 2015

How this Decision Affects Your Eligibility

Your enrollment in your Medicaid Managed Care plan is effective July 1, 2015.

The Marketplace will correct your enrollment start date accordingly.

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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- By fax: 1-855-900-5557

Summary

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The July 22, 2015 enrollment confirmation notice is MODIFIED to state that the enrollment in your MMC plan was effective July 1, 2015.

Your case is RETURNED to the Marketplace to effectuate this change to your Marketplace account.

Your enrollment in your Medicaid Managed Care plan is effective July 1, 2015.

The Marketplace will correct your enrollment start date accordingly.

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:

