



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004233

[REDACTED]

Dear [REDACTED],

On November 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 16, 2015 and August 8, 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 federal regulation 45 CFR § 155.545(b).

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you, your spouse, and your four children were no longer eligible for Medicaid, effective July 31, 2015?

Did the Marketplace properly determine that you and your spouse were eligible to receive up to \$218.00 per month in advance premium tax credit, effective September 1, 2015?

Did the Marketplace properly determine that you and your spouse were eligible for cost-sharing reductions, effective September 1, 2015?

Did the Marketplace properly determine that you and your spouse were not eligible for Medicaid?

Did the Marketplace properly determine that your child's coverage through Child Health Plus began on September 1, 2015, instead of August 1, 2015?

Procedural History

On July 3, 2014, the Marketplace issued an eligibility determination notice stating that you, your spouse, and your four children were each eligible for Medicaid, effective July 1, 2014.

On July 5, 2014, the Marketplace issued a notice confirming your family's enrollment in New York State Catholic Health Plan, Inc. (Fidelis Care). This

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notice further confirmed that your Medicaid coverage would begin July 1, 2014 and enrollment with Fidelis Care would begin August 1, 2014.

On June 11, 2015, the Marketplace issued a notice stating that it was time to renew your family's health insurance. The notice further stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether your family qualified for financial help paying for health coverage, and that you needed to update your account by July 15, 2015 or your family might lose the financial assistance you were currently receiving.

No updates were made to your account by July 15, 2015.

On July 16, 2015, the Marketplace issued a notice that your family was no longer qualified to enroll through NY State of Health because "[y]ou did not respond to the renewal notice and did not complete your renewal within the required timeframe."

On July 19, 2015, the Marketplace issued a disenrollment notice confirming that your family's Medicaid coverage under the Fidelis Care plan would end effective July 31, 2015.

On August 7, 2015, the Marketplace received a further revised application in which you attested to an expected yearly income of \$78,999.89. In response to this application, the Marketplace prepared a preliminary eligibility determination, which found that you and your spouse were eligible to receive an advance premium tax credit (APTC) of up to \$218.00 per month and cost-sharing reductions (CSR), effective September 1, 2015. It did not specify a finding on your eligibility for Medicaid. It also found that your each of your children were eligible to enroll in CHP at a reduced premium rate of \$15.00 per month, effective September 1, 2015.

Also on August 7, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of (1) the July 16, 2015 eligibility determination insofar as your family had been disenrolled from their Medicaid coverage effective July 31, 2015, and (2) the August 7, 2015 preliminary eligibility determination as you and your spouse were found ineligible for Medicaid and your children's CHP coverage could begin no earlier than September 1, 2015.

On August 8, 2015, the Marketplace issued an eligibility redetermination notice formalizing the findings prepared under the August 7, 2015 preliminary eligibility determination. It stated that you and your spouse were eligible to receive an APTC of up to \$218.00 per month; eligible for CSR, if you selected a silver-level plan; and ineligible for Medicaid, effective September 1, 2015. It also found that each of your children were eligible to enroll in CHP at a reduced premium rate of \$15.00 per month, effective September 1, 2015.

On August 8, 2015, the Marketplace issued a notice confirming the enrollment of your children in a Fidelis Care CHP plan, as of August 7, 2015, with a total premium responsibility of \$45.00 per month, effective September 1, 2015. The notice indicated that you had not chosen a plan yet for yourself or your spouse.

On November 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 supports the following findings of fact:

- 1) You testified, and your application reflects, that you requested to receive all notification from the Marketplace via electronic mail.
- 2) You testified that you had been receiving e-mail notification from the Marketplace around the time of your renewal, but that those e-mails merely contained a link to a separate website, and that you did not follow the link to that website.
- 3) You testified that you did not think the e-mails from the Marketplace were serious or issued in connection with your family's Medicaid renewal because there was nothing in the subject line or text of those e-mails regarding your Medicaid renewal.
- 4) The record reflects that you took no further steps to verify the authenticity of those e-mails, or otherwise contact the Marketplace for further instruction.
- 5) Since you did not renew your application by July 15, 2015, your family's Medicaid coverage was terminated effective July 31, 2015.
- 6) You testified that once you realized you had been disenrolled, you immediately contacted the Marketplace to submit an additional application to renew your coverage.
- 7) Your application reflects that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You will claim your four children as dependents on that tax return.
- 8) You are seeking insurance for you and your spouse since your children had subsequently been enrolled in Child Health Plus (CHP).

- 9) The application that was submitted on August 7, 2015 listed annual household income of \$78,999.89, consisting of (1) \$2,115.38 you receive from your employer, [REDACTED], once every two weeks, and (2) \$2,000.00 per month in separate earnings you receive from that same employer.
- 10) Your application states that you will not be taking any deductions on your 2015 tax return.
- 11) You live in Rockland County, New York.
- 12) Your application reflects that you enrolled your children in a Fidelis Care CHP plan on August 7, 2015.
- 13) There is nothing in the record to suggest that you have not paid the premium amounts for your children's enrollment in their CHP plan.
- 14) You testified that you were seeking to backdate your children's CHP start date to August 1, 2015, since you incurred medical expenses for one of your children during August 2015. You further testified that you were seeking reinstatement of Medicaid coverage for you and your spouse to August 1, 2015, because your spouse unknowingly attended a doctor's appointment after her Medicaid coverage had lapsed. You were also seeking a review of Medicaid eligibility for you and your spouse going forward.

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 12 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

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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)).

Advance Premium Tax Credit

The advance premium tax credit (APTC) is generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is 31,970.00 for a six-person household (79 Fed. Reg. 3593, 3593).

For annual household income in the range of at least 200% but less than 250% of the 2014 FPL, the expected contribution is between 6.34% and 8.10% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Medicaid

Medicaid can be provided through the Marketplace 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 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 \$32,570.00 for a six-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).

Child Health Plus

In New York State, Child Health Plus benefits are furnished “By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month” (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you, your spouse, and your four children were no longer eligible for Medicaid, effective July 31, 2015.

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Your family was originally found eligible for Medicaid based on a household income of \$42,500.01 on July 3, 2014. This eligibility determination was effective July 1, 2014.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every 12 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 June 11, 2015 renewal notice stated that there was not enough information to determine whether your family was eligible for financial assistance for health insurance coverage, and that you needed to supply additional information by July 15, 2015 or your family's financial assistance might end.

Your information was not updated prior to July 15, 2015, and on July 16, 2015 the Marketplace issued a notice that stated your family was no longer eligible for Medicaid.

You testified, and the record reflects, that you elected to receive notices from the Marketplace via electronic mail and that you did in fact receive email alerts. Because there was no timely response to the relevant notice, your family was terminated from their Medicaid coverage, effective July 31, 2015.

You testified that you did not receive the June 11, 2015 renewal notice. You further testified, however, that you did receive the Marketplace's e-mail notifications in your personal e-mail account, [REDACTED]. You stated that those e-mails contained a link, but that you did not go to the address listed in the link because the e-mails did not look serious in nature and never indicated that they were being issued in connection with your family's Medicaid renewal. The record reflects that you took no further steps to verify the authenticity of the e-mails, or contact the Marketplace for further instruction.

Therefore, it is concluded that the Marketplace gave you the proper notice that you needed to update your account and that you failed to timely do so.

Accordingly, the July 16, 2015 eligibility determination is AFFIRMED.

The second issue is whether the Marketplace properly determined that you and your spouse were eligible for an APTC of up to \$218.00 per month, effective September 1, 2015.

The application that was submitted on August 7, 2015 listed an annual household income of \$78,999.89 and the eligibility determination relied upon that information.

You and your spouse are each in a six-person household. You and your spouse expect to file a joint tax return for 2015 and will claim your four children as dependents on that tax return.

You reside in Rockland County, New York, where the second lowest cost silver plan available for a couple through the Marketplace costs \$744.81 per month.

An annual income of \$78,999.89 is 247.11% of the 2014 FPL for a six-person household. At 247.11% of the FPL, the expected contribution to the cost of the health insurance premium is 8.00% of income, or \$526.54 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for a couple in your county (\$744.81 per month) minus your expected contribution (\$526.54 per month), which equals \$218.27 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined you and your spouse to be eligible for up to \$218.00 per month in APTC.

The third issue is whether you and your spouse were properly found eligible for cost-sharing reductions (CSR).

CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$78,999.89 is 247.11% of the applicable FPL, the Marketplace correctly found you to be eligible for CSR.

The fourth issue is whether the Marketplace properly determined that you and your spouse were ineligible for Medicaid.

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 FPL for the applicable family size. On the date of your application, the relevant FPL was \$32,570.00 for a six-person household. Since \$78,999.89 is 242.55% of the 2015 FPL, the Marketplace properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the August 8, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for an APTC of up to \$218.00 per month, eligible for CSR, and ineligible for Medicaid, it is correct and is AFFIRMED.

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, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$3,745.55 per month.

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In your revised application submitted on August 7, 2015, you attested to receiving \$2,115.38 once every two weeks from [REDACTED], and additional monthly compensation of \$2,000.00 from that same employer.

Since the evidence of record reflects that your household income was \$6,230.76 for August 2015, you and your spouse did not qualify for Medicaid on the basis of monthly income when you submitted your revised application on August 7, 2015.

The final issue is whether the Marketplace properly determined that your child's enrollment in her Child Health Plus (CHP) plan was effective September 1, 2015.

The record indicates that you submitted your revised application for health insurance on August 7, 2015 and that you enrolled your children in a CHP plan that same day.

In New York State, consistent with federal regulation, if an application for CHP insurance coverage is received after the 15th of the month, benefits are provided on "the first day of the subsequent month."

On August 8, 2015, the Marketplace issued an eligibility determination notice stating that your children were eligible to enroll in CHP with a \$45.00 monthly premium, effective September 1, 2015.

Also on August 8, 2015, the Marketplace issued a notice confirming your children's enrollment in a Child Health Plus plan as of August 7, 2015. The notice confirmed that the total monthly premium was \$45.00 and their coverage could start as early as September 1, 2015, if you pay your first month premium.

Since you elected your children's plan on August 7, 2015, their CHP plan properly took effect on September 1, 2015.

Decision

The July 16, 2015 eligibility determination is AFFIRMED.

The August 8, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

Your family's Medicaid coverage terminated effective July 31, 2015.

You and your spouse remain eligible for an advance premium tax credit (APTC) of up to \$218.00 per month.

You and your spouse remain eligible for cost-sharing reductions (CSR).

The effective date of your children's Child Health Plus plan is September 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 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):

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Summary

The July 16, 2015 eligibility determination is AFFIRMED.

The August 8, 2015 eligibility determination is AFFIRMED.

This decision does not change your eligibility.

Your family's Medicaid coverage terminated effective July 31, 2015.

You and your spouse remain eligible for an advance premium tax credit (APTC) of up to \$218.00 per month.

You and your spouse remain eligible for cost-sharing reductions (CSR).

The effective date of your children's Child Health Plus plan is September 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:

