



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: AP000000004290

[REDACTED]

Dear [REDACTED],

On October 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 12, 2015 and August 13, 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).

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: October 28, 2015

NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly terminate your Medicaid coverage, effective August 31, 2015?

Procedural History

On December 2, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid because your household income of \$0.00 was at or below the allowable income limit. This eligibility was effective as of December 1, 2014.

Also on December 2, 2014, your Marketplace enrollment details reflected that you Medicaid Fee-For-Service coverage began on December 1, 2014.

On December 14, 2014, the Marketplace issued an enrollment notice confirming your enrollment in Affinity Health Plan, Inc., a Medicaid Managed Care (MMC) plan. The notice stated that your coverage under this MMC would begin January 1, 2015.

On March 16, 2015, the Marketplace received a revised application in which you attested to a household income of \$26,292.00.

On March 17, 2015, the Marketplace issued an eligibility redetermination notice stating that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until December 31, 2015 because certain individuals

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who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible.

On August 11, 2015, your application was modified to reflect an attested annual income of \$35,160.00 and monthly income of \$13,035.00.

On August 12, 2015, the Marketplace issued a notice of eligibility determination stating that you were newly conditionally eligible to receive an advance premium tax credit (APTC) and were ineligible for Medicaid. You conditional eligibility for APTC was pending the receipt of income documentation by November 9, 2015 to confirm your eligibility. This eligibility determination was effective September 1, 2015.

On that same day, your application was modified to reflect an attested annual income of \$32,754.00 and monthly income of \$2,191.00. In response to your application, the Marketplace prepared a preliminary eligibility determination finding you eligible for an APTC beginning September 1, 2015.

Also on August 12, 2015, you spoke to the Marketplace's Account Review Unit and appealed the August 11, 2015 eligibility determination insofar as you were found ineligible for Medicaid.

On August 13, 2015, the Marketplace issued a notice of eligibility determination formalizing the findings within the August 12, 2015 preliminary determination. It stated that you were conditionally eligible to receive an APTC and ineligible for Medicaid. Your conditional eligibility for APTC was pending the receipt of income documentation by November 9, 2015 to confirm your eligibility. This eligibility determination was effective September 1, 2015.

Also on August 13, 2015, the Marketplace issued a disenrollment notice confirming that your coverage under the MMC plan would end effective August 31, 2015.

On August 14, 2015, the Marketplace received a letter from you providing a Social Security Administration (SSA) Notice of Award issued to you on March 1, 2015.

On October 20, 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 expect to file your 2015 federal income tax return as single, and will claim no dependents.
- 2) You were initially found eligible for Medicaid coverage on December 2, 2014. Your coverage under Medicaid Fee-For-Service began December 1, 2015.
- 3) You enrolled in the Affinity Health Plan, Inc. Medicaid Managed Care (MMC) plan on December 14, 2015. Your coverage under this plan began January 1, 2015.
- 4) You testified that you were certified disabled as of March 20, 2014 due to suffering a stroke.
- 5) On August 14, 2015, you provided to the Marketplace a copy of a Social Security Administration (SSA) Notice of Award issued to you on March 1, 2015. It reflected that you would receive a lump sum payment of \$13,035.00 around March 7, 2015 relating to Social Security disability benefits you were due between September 2014 and February 2015, and that you were entitled to receive \$2,191.00 on or about the third Wednesday of each month, beginning April 2014.
- 6) You testified that you received the lump sum payment of \$13,035.00 on March 7, 2015, and that you began receiving \$2,191.00 beginning April 2015.
- 7) You testified that you revised your application on March 16, 2015 to reflect that you expected to receive \$2,191.00 in Social Security disability benefits.
- 8) On March 16, 2015, the Marketplace issued an eligibility redetermination notice based on your March 16, 2015 application. It stated that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until December 31, 2015.
- 9) You testified that you further revised your application on August 11, 2015 and August 12, 2015 to include the lump sum payment you received from the SSA on March 7, 2015. As a result of those two applications, you were found eligible to enroll in a qualified health plan, receive an advance premium tax credit (APTC), but were ineligible for Medicaid.

- 10) Your Medicaid coverage was terminated effective August 31, 2015.
- 11) You testified that you are not eligible for or receiving Medicare coverage. You further testified that such coverage would not begin for you until September 2016.
- 12) You testified that you would like your Medicaid reinstated since you believed it was erroneously terminated due to the continuous coverage guidelines.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

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)).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The only issue under review is whether the Marketplace properly terminated your Medicaid coverage effective August 31, 2015.

You were determined eligible for Medicaid effective December 1, 2014. You selected Affinity Health Plan, Inc., a Medicaid Managed Care (MMC) plan, on December 14, 2014, and that coverage took effect on January 1, 2015.

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for twelve months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

You testified that even though your new applications reflected the Social Security lump sum benefits of \$13,035.00 and monthly benefits of \$2,191.00, you should not have been disenrolled from your Medicaid coverage since a Marketplace representative had informed you that your coverage should have continued for twelve months.

Since the record reflects that your Medicaid coverage began on December 1, 2014, your 12 consecutive months of Medicaid eligibility was due to expire on November 30, 2015.

Therefore, since the record reflects that your Medicaid coverage should have continued until November 30, 2015, and that none of the exceptions to the continuous coverage guidelines apply, the August 12, 2015 and August 13, 2015 eligibility redetermination notices were issued in error and must be RESCINDED.

Furthermore, since the August 13, 2015 disenrollment notice terminating your Medicaid coverage was issued based on the findings of August 12, 2015 and August 13, 2015 eligibility redetermination notices, which are no longer in effect, it must also be RESCINDED.

Finally, we note that the March 17, 2015 eligibility determination notice stated that your Medicaid coverage would continue until December 31, 2015. Since the record reflects that your Medicaid coverage began on December 1, 2014, the March 17, 2015 is MODIFIED to state that your coverage would continue until November 30, 2015.

Decision

The August 12, 2015 and August 13, 2015 eligibility redeterminations are RESCINDED.

The August 13, 2015 disenrollment notice is RESCINDED.

The March 17, 2015 eligibility determination is MODIFIED to state that your coverage would continue until November 30, 2015

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You are no longer eligible to enroll in a qualified health plan and receive an advance premium tax credit (APTC).

You Medicaid coverage is reinstated as of September 1, 2015, and will continue until November 30, 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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The August 12, 2015 and August 13, 2015 eligibility redeterminations are RESCINDED.

The August 13, 2015 disenrollment notice is RESCINDED.

The March 17, 2015 eligibility determination is MODIFIED to state that your coverage would continue until November 30, 2015

You are no longer eligible to enroll in a qualified health plan and receive an advance premium tax credit (APTC).

You Medicaid coverage is reinstated as of September 1, 2015, and will continue until November 30, 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:

