



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: AP000000004308

[REDACTED]

Dear [REDACTED],

On November 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 23, 2015 and August 8, 2015 eligibility determination notices.

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).

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 25, 2015

NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace issue a notice of eligibility determination for you in the required time frame?

Did the Marketplace properly determine that your eligibility for fee-for-service Medicaid was effective July 1, 2015?

Did the Marketplace properly determine that you were not eligible for Medicaid coverage for the month of June 2015?

Procedural History

On June 4, 2015 the Marketplace issued a notice stating that it had reviewed the information in the June 3, 2015 application for health insurance, but that more information was needed in order for a determination to be made on your eligibility for health insurance. The notice directed you to submit income documentation to confirm the information in your application by June 19, 2015.

On June 3, 2015, June 11, 2015, and June 26, 2015 you faxed in documentation to the Marketplace.

On July 3, 2015, based on the documentation you submitted, the Marketplace issued an eligibility redetermination notice stating that you were eligible to receive up to \$203.00 per month in advance premium tax credits and cost-sharing reductions, effective August 1, 2015.

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On July 8, 2015 the income information in your application was updated.

On July 9, 2015 the Marketplace issued a notice stating that it had reviewed the information in the July 8, 2015 application for health insurance but that more information was needed in order for a determination to be made on your eligibility for health insurance. The notice requested that you submit income documentation to confirm the information in your application by July 24, 2015.

On July 9, 2015 you faxed in additional documentation to the Marketplace.

On July 23, 2015, based on the documentation you submitted, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid effective July 1, 2015.

On August 8, 2015 the Marketplace issued an eligibility determination notice stating that you were not eligible for retroactive Medicaid coverage for the period from June 1, 2015 to June 30, 2015 because your monthly household income you provided of \$2,052.33 was over the allowable monthly income limit of \$1,832.00.

On August 13, 2015, you spoke to the Marketplace's Account Review Unit and appealed the denial of your request for retroactive Medicaid coverage.

On September 24, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible for retroactive Medicaid coverage from April 1, 2015 to May 31, 2015 because your household income of \$1,654.90 was at or below the allowable income limit of \$1,832.00.

On November 13, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, you appointed [REDACTED] as your Authorized Representative. 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) Your Authorized Representative testified that it is your contention that the Marketplace failed to make a timely eligibility determination based on your application for health insurance.
- 2) You testified that you applied for health insurance through New York State of Health in April 2015 and that you were not informed of an issue with your account until the June 4, 2015 notice asking you for more information.

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- 3) The record reflects that your account with the New York State of Health was created by user "██████" on June 3, 2015.
- 4) On June 3, 2015, June 11, 2015, and June 26, 2015 you faxed in documentation to the Marketplace in order to complete your application.
- 5) On July 3, 2015 the Marketplace issued an eligibility determination on your June 3, 2015 application for health insurance.
- 6) You were initially found eligible for Medicaid effective July 1, 2015 as stated in the July 23, 2015 eligibility determination notice.
- 7) The record indicates that you requested retroactive Medicaid coverage for the months of April, May, and June 2015.
- 8) You were found eligible for retroactive Medicaid coverage for the months of April and May 2015 only. You were found not eligible for Medicaid for the month of June 2015 because your income was over the allowable income limit that month.
- 9) Your Authorized Representative testified that because you were found eligible for Medicaid in the month of April you should be eligible for Medicaid continuously from that month forward.
- 10) You testified that you intend on filing your 2015 taxes as married filing jointly with your spouse and will claim no dependents on that tax return.
- 11) You testified that your household's income for the month of June consisted of your unemployment benefits and your spouse's social security benefits.
- 12) You testified that your original application for unemployment benefits was denied but you appealed that decision and it was reversed by the Department of Labor.
- 13) You provided a copy of your Official Record of Benefit Payment History for your unemployment benefits. The history shows that on June 22, 2015 you received \$137.00, \$205.50, \$205.50, \$205.50, \$205.50, \$205.50, and \$274.00 in retroactive unemployment benefits, and on June 29, 2015 you received \$274.00.
- 14) You provided a letter from the Social Security Administration that states your spouse's monthly benefit is \$1,430.00.

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

Applicable Law and Regulations

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

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)).

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).

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).

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The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(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)).

Legal Analysis

The first issue under review is whether the Marketplace issued a notice of eligibility determination for you in the required time frame.

Your Authorized Representative testified that it is your contention that the Marketplace failed to make a timely eligibility determination based on your application for health insurance.

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination. To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

You testified that you applied for health insurance through New York State of Health in April 2015 and that you were not informed of an issue with your application until the June 4, 2015 notice asking you for more information. However, the record reflects that your account with the New York State of Health was created by user “██████” on June 3, 2015. There is nothing in the record that indicates an account using your identifying information was created prior to this date.

Therefore, the credible evidence in the record supports that the Marketplace received your first application for health insurance on June 3, 2015. Based on that application, the Marketplace requested that you provide additional documentation in order to make an eligibility determination. You provided the additional documentation on June 3, 2015, June 11, 2015, and June 26, 2015.

As a result, the record supports a finding that your application was complete as of the Marketplace's receipt of the last piece of necessary documentation on June 26, 2015. The Marketplace issued an eligibility determination notice on July 3, 2015 based on your application and the documentation you provided. Since the Marketplace issued an eligibility determination 8 days from the date your application was considered complete, the Marketplace was well within the required 45 day time frame.

The second issue under review is whether the Marketplace properly determined that your eligibility for fee-for-service Medicaid was effective July 1, 2015.

On July 8, 2015 income information in your Marketplace account was updated. On July 23, 2015 an eligibility determination was issued based on this information finding you eligible for Medicaid effective July 1, 2015.

The record indicates that you requested retroactive Medicaid coverage for the months of April, May, and June 2015. On September 24, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid coverage from April 1, 2015 to May 31, 2015 because your household income of \$1,654.90 is at or below the allowable income limit of \$1,832.00.

Your Authorized Representative testified that because you were found eligible for Medicaid in the month of April you should be eligible for Medicaid continuously from that month forward.

You were not found fully eligible for Medicaid coverage until July 23, 2015. Medicaid fee-for-service coverage begins the first day of the month in which an applicant is found eligible. Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months. However, the start date of continuous coverage is based on the start date of the original Medicaid eligibility, which in your case is July 1, 2015.

Therefore, the July 23, 2015 eligibility determination finding you eligible for Medicaid effective July 1, 2015 is AFFIRMED.

The final issue under review is whether the Marketplace properly determined that you were not eligible for Medicaid coverage for the month of June 2015.

You are in a two person household; you testified that you intend to file your 2015 tax return as married filing jointly with your spouse and you will claim no dependents on that tax return.

You were initially found eligible for Medicaid in the July 23, 2015 eligibility determination notice. As discussed above, this notice properly began your eligibility for Medicaid on July 1, 2015. The record indicates that you requested retroactive Medicaid coverage for the months of April, May, and June 2015. Of those months, only the month of June is currently in dispute.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid in one of those months and if they would have been eligible for Medicaid in that month had they applied. Eligibility for the reimbursement of medical bills for each of the three months is considered separately.

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 in June 2015 you would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 per month for a two person household. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during June.

You testified that your household's income from the month of June consisted of your unemployment benefits and your spouse's social security benefits.

You provided a letter from the Social Security Administration that states your spouse's monthly benefit is \$1,430.00.

You testified that your original application for unemployment benefits was denied but you appealed that decision and it was reversed by the Department of Labor. You provided a copy of your Official Record of Benefit Payment History for your unemployment benefits. The history shows that on June 22, 2015 you received \$137.00, \$205.50, \$205.50, \$205.50, \$205.50, \$205.50, and \$274.00 in retroactive unemployment benefits, and on June 29, 2015 you received \$274.00.

While we understand that the majority of the payments you received from unemployment in the month of June were a result of you successfully appealing a previous denial of unemployment benefits, the Marketplace calculates monthly income based on the dates when an individual receives the actual income.

Therefore, the record indicates that your household earned \$3,484.50 in the month of June 2015. Since your household income of \$3,484.50 was more than

the \$1,832.00 monthly Medicaid limit for June 2015, the Marketplace properly determined that you were not eligible for Medicaid coverage during that month.

Therefore, the August 8, 2015 notice that states that you are not eligible for Medicaid from June 1, 2015 through June 30, 2015 because your monthly household income is over the allowable monthly income limit is AFFIRMED.

Decision

The Marketplace made its initial eligibility determination within the required time frame.

The July 23, 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

You are eligible for Medicaid effective July 1, 2015.

You are eligible for retroactive Medicaid for the months of April and May 2015.

You are not eligible for retroactive Medicaid for the month of June 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)).

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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 Marketplace made its initial eligibility determination within the required time frame.

The July 23, 2015 eligibility determination is AFFIRMED.

The August 8, 2015 eligibility determination is AFFIRMED.

You are eligible for Medicaid effective July 1, 2015.

You are eligible for retroactive Medicaid for the months of April and May 2015.

You are not eligible for retroactive Medicaid for the month of June 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:

[REDACTED]

[REDACTED]