



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004321

[REDACTED]

Dear [REDACTED] [REDACTED]

On October 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 14, 2015, July 9, 2015, and August 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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Issues

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

Did the Marketplace properly determine, in the June 14, 2015 notice, that you were no longer eligible for Medicaid through the Marketplace, effective June 30, 2015?

Did the Marketplace properly find you, your spouse, and your step-daughter collectively eligible for an advance premium tax credit of up to \$876.00 per month; eligible for cost-sharing reductions; and ineligible for Medicaid, effective September 1, 2015?

Procedural History

On November 29, 2014, the Marketplace issued an eligibility determination notice which was based on your November 25, 2014 application. This notice stated that you were conditionally eligible for Medicaid, pending the receipt of documentation to confirm your incarceration status by February 25, 2015 and, if you failed to submit the documentation, your eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end. This determination also found your spouse and your step-daughter fully eligible for Medicaid. This eligibility determination was effective November 1, 2014.

On December 11, 2014, the Marketplace issued an enrollment notice confirming that as of November 25, 2014, you, your spouse, and your two younger children were enrolled in Hudson Health Plan, Inc. Medicaid Managed Care (MMC) plan. This notice further stated that your step-daughter did not need to pick a health

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plan. Finally, the notice stated that your family's Medicaid coverage would begin on November 1, 2014, and that your and your spouse's coverage under the Hudson Health Plan, Inc. MMC plan would begin January 1, 2015. Your two younger children's enrollment in the MMC plan began "February 1, 2014" (*sic*). Your step-daughter's coverage under Medicaid would begin November 1, 2014.

On December 26, 2014, the Marketplace issued a disenrollment notice confirming that enrollment in both Medicaid and your MMC plan for you and your spouse would end effective November 30, 2014; your step-daughter's coverage in her MMC plan would end on November 30, 2014. However, the enrollment details in your Marketplace account reflect that Medicaid Fee-For-Service coverage for you and your spouse remained active and that the coverage start date was November 1, 2014. Your step-daughter's coverage also remained active and that her coverage start date was December 1, 2014.

On March 7, 2015, the Marketplace redetermined your eligibility and issued an eligibility redetermination notice. This notice again stated that you were conditionally eligible for Medicaid, pending the receipt of documentation to confirm your incarceration status by June 5, 2015 and, if you failed to submit the documentation, your eligibility to remain enrolled in health insurance through the Marketplace or to receive financial assistance might end. This determination also found that your spouse remained eligible for Medicaid and that your step-daughter was eligible for Medicaid. This eligibility determination was effective March 1, 2015.

On June 14, 2015, the Marketplace issued an eligibility determination notice stating that you were no longer eligible for Medicaid, Child Health Plus, tax credits or cost-sharing reductions. The notice also stated that you were not eligible to enroll in a qualified health plan at full cost. This determination was issued because you did not provide documentation to confirm your incarceration status prior to the deadline. Your eligibility for Medicaid ended effective June 30, 2015.

Also on June 14, 2015, the Marketplace issued a disenrollment notice confirming that your coverage under the Hudson Health Plan, Inc. MMC plan would be terminated effective June 30, 2015.

Also on June 14, 2015, the Marketplace issued an eligibility redetermination notice stating, in relevant part, that your spouse and your two younger children remained eligible for Medicaid and that your step-daughter was eligible for Medicaid. This eligibility determination was effective June 1, 2015.

Also on June 14, 2015, the Marketplace issued an enrollment notice confirming that your spouse and your two younger children had been auto-enrolled in the Hudson Health Plan, Inc. MMC plan effective January 1, 2015, and that your step-daughter did not need to select a health plan.

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On July 8, 2015, the Marketplace reviewed your application.

On July 9, 2015, the Marketplace issued two eligibility redetermination notices. They collectively stated that you remained ineligible for Medicaid since you had not provided documentation to confirm your incarceration status, that your spouse remained eligible for Medicaid, and that your step-daughter was eligible for Medicaid. These eligibility determinations were effective July 1, 2015.

Also on July 9, 2015, the Marketplace issued an enrollment notice confirming again that your spouse had been auto-enrolled in the Hudson Health Plan, Inc. MMC plan effective January 1, 2015, and that your step-daughter did not need to select a health plan.

Finally on July 9, 2015, the Marketplace received (1) a copy of your standard NYS Driver's License, and (2) a letter issued by [REDACTED] on July 8, 2015, stating that you had been employed since January 1, 2015 and you were a full-time employee.

On August 14, 2015, the Marketplace received a revised application. In response to this application, the Marketplace prepared a preliminary eligibility determination stating that you, your spouse, and your step-daughter were collectively eligible to receive an advance premium tax credit (APTC) of up to \$876.00 per month and eligible for cost-sharing reductions (CSR), beginning September 1, 2015. It also requested that you provide additional documentation to confirm your individual eligibility. It did not make a separate determination on your eligibility for Medicaid.

Also on August 14, 2015, you contacted the Marketplace's Account Review Unit and appealed (1) the June 14, 2015 determination insofar as you were determined to be ineligible to remain enrolled in Medicaid, and (2) the August 14, 2015 eligibility determination insofar as it found that you, your spouse, and your step-daughter were ineligible for Medicaid.

On August 15, 2015, the Marketplace issued an eligibility redetermination notice formalizing the findings prepared under the August 14, 2015 preliminary eligibility determination. It stated that you, your spouse, and your step-daughter were collectively eligible to receive up to \$876.00 per month in APTC; eligible for CSR, provided you selected a silver-level plan; and ineligible for Medicaid, effective September 1, 2015. Your eligibility for both the APTC and CSR was conditional pending the receipt of documentation to confirm your incarceration status by November 12, 2015.

On October 22, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional

evidence to corroborate your testimony: (1) your 2014 joint tax return reflecting that you intended to claim only two dependents, (2) all earnings statements received by you from your employer, [REDACTED] during August 2015 and (3) all earnings statements received by your spouse's employer, [REDACTED] during August 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 27, 2015, you provided the above referenced documents to the Appeals Unit via facsimile, which were made part of the record that same day.

Accordingly, the record was closed on October 27, 2015.

Findings of Fact

A review of the record support the following findings of fact:

- 1) You testified, and your Marketplace account confirms, that you receive all of your notices via regular mail.
- 2) You testified that you did not recall receiving the March 7, 2015 eligibility determination notice requesting documentation confirming incarceration status by June 5, 2015, or the June 14, 2015 eligibility determination notice stated that you were no longer eligible for Medicaid as of June 30, 2015; however, you acknowledged that your spouse handles the mailing in your household so you couldn't be sure that you didn't receive this notice.
- 3) There is no indication that any mail that was sent to you at the address listed on your account was returned to the Marketplace as undeliverable.
- 4) You testified that you did receive the July 9, 2015 notice stating that you were ineligible to enroll in health insurance through the Marketplace because you had not provided documentation to confirm your incarceration status. You further testified that you were not aware that your Medicaid had been terminated until you received this letter.
- 5) On July 9, 2015, you provided a copy of your standard NYS Driver's License and a letter issued by [REDACTED] on July 8, 2015, stating that you have been employed since January 1, 2015 and you are a full-time employee. You testified that you provided these documents in order to satisfy the Marketplace's request to confirm your incarceration status.

- 6) You testified that you were not clear why the Marketplace was requesting the documents to confirm your incarceration status since the last time you were incarcerated was approximately 30 years ago in the [REDACTED]
- 7) You testified that you live with your spouse and your two children. You further testified that your step-daughter is no longer living at your residence.
- 8) You testified that you have always filed your taxes jointly with your spouse and claimed your two children as your dependents. You further testified that your step-daughter files her own taxes, and that you do not claim her as a dependent. You were unclear on whether her biological father claims her as a dependent.
- 9) You testified that you believed that your step-daughter already has insurance through her biological father's employer.
- 10) Your spouse began receiving her Medicaid Fee-For-Service coverage effective November 1, 2014.
- 11) Your step-daughter began receiving her Medicaid Fee-For-Service coverage effective December 1, 2014.
- 12) Your August 14, 2015 application reflects that your annual household income was \$43,640.48, which was based on (1) your weekly earnings of \$352.00 from [REDACTED] beginning January 1, 2015 and (2) your spouse's earnings of \$974.48 from [REDACTED] once every two weeks. You testified that these income amounts remained accurate.
- 13) You testified that you are paid weekly by your employer, and that your spouse is paid bi-weekly by her employer.
- 14) Your application reflects that you, your spouse, and your two children reside in Orange County, New York.
- 15) You are seeking reinstatement of your health insurance coverage through Medicaid.
- 16) On October 27, 2015, you provided earning statements issued to you by your employer reflecting that you received (1) \$400.00 on August 4, 2015, (2) \$400.00 on August 11, 2015, (3) \$400.00 on August 18, 2015 and (4) \$400.00 on August 25, 2015.

- 17) On October 27, 2015, you also provided earning statements issued to your spouse by her employer reflecting that she received (1) \$1,440.00 on August 14, 2015, (2) \$1,440.00 on August 28, 2015 and (3) \$1,440.00 on September 11, 2015.

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

Applicable Law and Regulations

Eligibility for Enrollment in Medicaid

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)).

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person’s household remains Medicaid eligible for 12 months unless the person becomes ineligible due to “citizenship status, lack of [New York] state residence, or failure to provide a valid social security number” (N.Y. Social Services Law § 366.4(c)).

The Marketplace must verify an applicant’s attestation that the applicant is not incarcerated by either relying on available electronic data sources, or accepting the applicant’s attestation when electronic data sources are unavailable (45 CFR § 155.315(e)). However, if an applicant’s attestation is not reasonably compatible with information from approved data sources or other information provided by the applicant, the Marketplace must notify the applicant of the inconsistency and provide the applicant with a period of 90 days to present documentation to resolve the inconsistency (45 CFR § 155.315(e)(3), (f)(2)(i)-(ii)).

If the Marketplace remains unable to verify the attestation after the 90-day period ends, then it must determine the applicant’s eligibility based on the information available in the data sources (45 CFR § 155.315(f)(5)).

Household Composition

Generally, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which

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typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were no longer eligible for Medicaid through the Marketplace, effective June 30, 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their incarceration status is satisfactory.

If the Marketplace cannot verify an individual's incarceration status, it must provide the individual a period of 90 days, from the date notice is received, to resolve the inconsistency.

In the eligibility determination issued on March 7, 2015, you were advised that your eligibility for Medicaid was only conditional, and that you needed to confirm incarceration status before June 5, 2015

You stated that you did not receive this notice; however, the record indicates that (1) the notice was issued to the address you have listed on your Marketplace account, (2) there is no indication that any of the notices issued to you were returned to the Marketplace as undeliverable, and (3) you failed to provide the requested incarceration documentation before the June 5, 2015 deadline.

If the Marketplace remains unable to verify the inconsistency after the 90-day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested documentation was not received within the 90-day period, the Marketplace was required to redetermine your eligibility without verification of your incarceration status. As a result, the Marketplace properly determined that you could not remain enrolled in Medicaid through NY State of Health effective June 30, 2015 because you had not provided the information requested by the Marketplace.

Therefore, the Marketplace's June 14, 2015 and July 9, 2015 eligibility determinations are correct and are **AFFIRMED**.

The record reflects that on July 9, 2015, you provided to the Marketplace a copy the letter issued by your employer stating that you have been employed since January 1, 2015.

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The second issue under review is whether the Marketplace properly determined that you, your spouse, and your step-daughter were eligible for an advance premium tax credit (APTC), eligible for cost-sharing reductions (CSR) and ineligible for Medicaid.

A revised application was received by the Marketplace on August 14, 2015, and the preliminary determination that resulted found that you, your spouse, and your step-daughter were collectively eligible for an APTC of up to \$867.00 per month, eligible for CSR, and ineligible for Medicaid. Your eligibility was, again, conditional pending the receipt of documentation to confirm your incarceration status by November 12, 2015.

You testified, contrary to the information contained in your application upon which the August 15, 2015 eligibility determination was based, that you would not be claiming your step-daughter as a dependent on your tax return, but rather filing your 2015 taxes jointly with your spouse and claiming only your two children as dependents. You testified that you have not claimed your step-daughter as a dependent for a number of years.

Since the August 15, 2015 eligibility determination was erroneously issued based on a five-person household, it is inconsistent with the now available record and must be RESCINDED. Since the determination which effectively terminated your spouse's and step-daughter's Medicaid coverage has been rescinded, their Medicaid coverage is reinstated in line with the continuous coverage guidelines. Accordingly, your spouse and step-daughter are eligible to continue receiving Medicaid coverage up until October 31, 2015 and November 30, 2015, respectively.

At the request of the Hearing Officer, you provided all earnings statements you and your spouse received during the month of your application, which was August 2015. These earnings statement reflected that your total household income during August 2015 was \$4,480.00.

Your case is RETURNED to the Marketplace to verify your incarceration documentation you provided on July 9, 2015 and redetermine your household's eligibility for health insurance based on an annual household income of \$43,640.48 for a four-person household in Orange County, and if necessary, a monthly income of \$4,480.00 during August 2015.

The Marketplace must also base its redetermination on the fact that your spouse has been receiving Medicaid coverage since November 1, 2014 and that your step-daughter has been receiving Medicaid coverage since December 1, 2014.

Decision

The June 14, 2015 and July 9, 2015 eligibility determination are AFFIRMED.

The August 15, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to verify your documentation you provided on July 9, 2015 and redetermine your household's eligibility for health insurance based on an annual household income of \$43,640.48 for a four-person household in Orange County, and if necessary, a monthly income of \$4,480.00 during August 2015.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

You are not eligible to enroll in Medicaid through the Marketplace at this time.

Your spouse's and your step-daughter's Medicaid coverage is reinstated and they are eligible to continue receiving Medicaid coverage up until October 31, 2015 and November 30, 2015, respectively.

Your case is being sent back to the Marketplace to verify the documentation you submitted and redetermine your household's eligibility for health insurance.

The Marketplace will issue an eligibility redetermination notice thereafter.

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 June 14, 2015 and July 9, 2015 eligibility determination are AFFIRMED.

The August 15, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to verify your documentation you provided on July 9, 2015 and redetermine your household's eligibility for health insurance based on an annual household income of \$43,640.48 for a four-person household in Orange County, and if necessary, a monthly income of \$4,480.00 during August 2015.

You are not eligible to enroll in Medicaid through the Marketplace at this time.

Your spouse's and your step-daughter's Medicaid coverage is reinstated and are eligible to continue receiving Medicaid coverage up until October 31, 2015 and November 30, 2015, respectively.

Your case is being sent back to the Marketplace to verify the documentation you submitted and redetermine your household's eligibility for health insurance.

The Marketplace will issue an eligibility redetermination notice thereafter.

Legal Authority

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A Copy of this Decision Has Been Provided To:

