



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

## Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004498

[REDACTED]

Dear [REDACTED],

On December 16, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination and disenrollment notice and the August 26, 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 and the NY State of Health number at the top of this notice.

## Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Decision

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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 properly determine that your enrollment in your Medicaid Managed Care plan should end July 31, 2015?

Did the Marketplace properly determine that your enrollment in your qualified health plan was effective October 1, 2015?

Did the Marketplace properly determine that your coverage under Medicaid would continue until March 2016, pending the completion of the Appeals process (known as, "Aid to Continue")?

## Procedural History

On August 27, 2014 the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid, effective July 1, 2014, and you were subsequently enrolled in a Medicaid Managed Care plan.

On June 12, 2015, the Marketplace issued a notice stating that it was time to renew your health insurance. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by July 15, 2015 or you might lose the financial assistance you were currently receiving.

On July 19, 2015, the Marketplace issued a notice stating that you had not responded to the renewal notice and that you were therefore no longer eligible

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for Medicaid, or tax credits and cost-sharing reductions. You also could not enroll in a qualified health plan at full cost. Your eligibility ended effective July 31, 2015.

Also on July 19, 2015, the Marketplace issued a disenrollment notice stating that your Medicaid Managed Care plan would end effective July 31, 2015.

On August 25, 2015, your Marketplace eligibility was redetermined by the Marketplace.

On August 26, 2015, the Marketplace issued an eligibility redetermination notice stating that you were conditionally eligible to receive up to \$328.00 per month in advance payments of the premium tax credit, as well as cost-sharing reductions. This eligibility was effective October 1, 2015.

Also on August 26, 2015 the Marketplace issued an enrollment confirmation notice stating that your enrollment in CDPHP with a monthly premium of \$176.53 could start as early as October 1, 2015 if you paid your first month's premium.

On August 27, 2015, you spoke to the Marketplace's Account Review Unit and appealed the gap in coverage you had between August 1, 2015 and September 30, 2015. According to the Marketplace, you also requested Aid to Continue.

On September 24, 2015 the Marketplace made a decision on your Aid to Continue request.

On September 25, 2015 the Marketplace issued a notice stating that you were eligible for Medicaid effective August 1, 2015. Although it appears that this findings was a result of your request for Aid to Continue, the written determination did not explicitly state this.

Also on September 25, 2015 the Marketplace issued a cancellation notice stating that you requested to cancel your coverage through CDPHP and that your enrollment was cancelled effective September 24, 2015.

On December 16, 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 that you did not receive any notice from the Marketplace regarding the need to renew your information to ensure that your coverage would not be interrupted.

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- 2) Your Marketplace account indicates that notice alerts were sent to you by email.
- 3) You testified that the email address that was on your Marketplace application was for an email account that you no longer access.
- 4) You testified that you did not know you had been disenrolled from your Medicaid Managed Care plan until you went to pick up your prescriptions.
- 5) The record reflects that you updated your account on August 25, 2015, at which time you enrolled into a CDPHP qualified health plan that was to begin on October 1, 2015.
- 6) You testified that you filed an appeal because you did not want to be without medical coverage for August and September 2015.
- 7) You testified that you made no medical appointments in August and September because you thought you did not have coverage.
- 8) You testified that in September you paid your first premium to CDPHP and thought that you would have coverage through that plan as of October 1, 2015.
- 9) The record reflects that on September 24, 2015 the Marketplace granted you Aid to Continue by enrolling you back into Medicaid and backdating the coverage to August 1, 2015.
- 10) You testified that you received a Medicaid card in September that granted you Medicaid until March 2016.
- 11) You testified that you called your Medicaid plan, CDPHP, and the Marketplace, and were told that you had Medicaid coverage. No one explained to you that your Medicaid coverage was a result of your Aid to Continue request.
- 12) You testified that had you known the Medicaid coverage was not official, you would have continued with your CDPHP plan as of October 1, 2015.

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 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)).

### Redetermination

When a redetermination is issued as a result of a change in an applicant’s information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has elected to do so (13 OHIP/ADM-03).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that your enrollment in your Medicaid Managed Care plan ended July 15, 2015.

On August 27, 2014 the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every 12 months 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.

Accordingly, the Marketplace issued a renewal notice on June 12, 2015. That notice stated that there was not enough information to determine whether you

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continued to be eligible for financial assistance for health insurance coverage in 2015, and directed you to supply additional information by July 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, your enrollment in your Medicaid Managed Care plan was terminated effective July 31, 2015.

You testified that you did not receive any notice from the Marketplace regarding the need to renew your information to ensure that your coverage would not be interrupted.

You testified that the email address that was on your Marketplace application was for an email account that you no longer access; however, your Marketplace account still indicated that notice alerts would be sent to you by email, pursuant to your election. There is no indication that you attempted to update your account to include the proper email address.

Therefore, it is determined that the proper notice was sent to you regarding the need for you to update your account, and that the Marketplace properly disenrolled you from coverage when you failed to respond to the renewal notice.

The second issue is whether the Marketplace properly determined that your enrollment in your qualified health plan was effective October 1, 2015

The record reflects that you updated your account on August 25, 2015. As a result of this update, you were found eligible for advance payments of the premium tax credit and cost-sharing reductions, and you enrolled in a CDPHP qualified health plan that was to begin on October 1, 2015.

When an individual changes information in their application before the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the next following month. The date on which a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the fifteenth day and last day of a month goes into effect on the first day of the next following month.

Therefore, the Marketplace properly found that your enrollment in your new plan would be effective October 1, 2015, because your account was updated on August 25, 2015.

The third issue under review is whether the Marketplace properly determined that your enrollment in your Medicaid Managed Care plan ended July 31, 2015 but that your Medicaid coverage would continue until March 2016 because of the Marketplace granting you Aid to Continue.

As discussed above, you were disenrolled from your Medicaid Managed Care plan effective July 31, 2015 and your coverage through a qualified health plan began on October 1, 2015. You testified that you filed an appeal because you did not want to be without medical coverage for August and September 2015.

The record reflects that when you requested an appeal, the Marketplace was under the impression that you also requested Aid to Continue. Aid to Continue means that your eligibility will continue as previously established until a decision on your appeal is issued; however, a person who is granted Aid to Continue may have to pay back the services that they received through their Aid to Continue coverage if their appeal is ultimately unsuccessful.

The record reflects that on September 24, 2015 the Marketplace granted you Aid to Continue by enrolling you back into Medicaid and backdating the coverage to August 1, 2015. On September 25, 2015 the Marketplace issued a notice stating that you were eligible for Medicaid effective August 1, 2015. The notice did not indicate that this was a result of your request for Aid to Continue. That same day the Marketplace also disenrolled you from your CDPHP qualified health plan that was set to begin October 1, 2015 which you had already made a premium payment for.

You testified that you made no medical appointments in August and September because you thought you did not have coverage. You testified that you received a Medicaid card in September that granted you Medicaid until March 2016 and you called your Medicaid plan, CDPHP, and the Marketplace and were told that you had Medicaid coverage. No one explained to you that your Medicaid coverage was a result of your Aid to Continue request.

During the hearing, the Hearing Officer explained to you that your current Medicaid coverage was a result of Aid to Continue and was contingent on the outcome of the appeal. You testified that had you known the Medicaid coverage was not official, you would have continued with your CDPHP plan as of October 1, 2015 since you had already paid the first month's premium for that plan.

The record supports a finding that the Marketplace erred in its application of Aid to Continue in your case. Even if you had requested Aid to Continue when you filed your appeal on August 27, 2015, the Marketplace did not respond until September 24, 2015. By that time, you had already essentially been without coverage for two months, and you had purposefully made no medical appointments and paid your first month's premium for your qualified health plan.

The Marketplace should not have stopped your qualified health plan from beginning as of October 1, 2015 without your explicit consent, because your original issue was the gap in health insurance coverage from August 1, 2015 to September 30, 2015, and not your eligibility for financial assistance. By placing you back into Medicaid and issuing an eligibility determination notice that did not



explain that your coverage was contingent on your appeal, the Marketplace put you in a situation where you could be responsible for services you received during the Aid to Continue coverage without your knowledge or consent.

Therefore, the Appeals Unit finds that continuing your Medicaid coverage as of August 1, 2015 is proper and you are not responsible for any services you might have received during your "Aid to Continue" coverage period.

Your case is RETURNED to the Marketplace to redetermine your eligibility using your 2016 financial information and facilitate your re-enrollment into a qualified health plan, while ensuring there is no gap in coverage between your Medicaid coverage and the start date of whatever plan you enroll in as a result of the Marketplace's redetermination.

## **Decision**

The July 19, 2015 eligibility determination and disenrollment notice and the August 26, 2015 enrollment confirmation notice are AFFIRMED.

Your case is RETURNED to the Marketplace to redetermine your eligibility using your 2016 financial information and facilitate your re-enrollment into a qualified health plan, while ensuring there is no gap in coverage between your Medicaid coverage and the start date of whatever plan you enroll in as a result of the Marketplace's redetermination.

**Effective Date of this Decision:** February 16, 2016

## **How this Decision Affects Your Eligibility**

Your qualified health plan was properly set to begin on October 1, 2015.

However, the Marketplace erred in terminating this coverage without your explicit consent. Your case is being sent back to the Marketplace to redetermine your eligibility using your 2016 financial information and facilitate your re-enrollment into a qualified health plan to ensure there is no gap in coverage from your Medicaid through Aid to Continue and the start date of whatever plan you enroll in as a result of the Marketplace's redetermination.

## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The July 19, 2015 eligibility determination and disenrollment notice and the August 26, 2015 enrollment confirmation notice are **AFFIRMED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility using your 2016 financial information and facilitate your re-enrollment into a qualified health plan, while ensuring there is no gap in coverage between your Medicaid

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coverage and the start date of whatever plan you enroll in as a result of the Marketplace's redetermination.

Your qualified health plan was properly set to begin on October 1, 2015.

However, the Marketplace erred in terminating this coverage without your explicit consent. Your case is being sent back to the Marketplace to redetermine your eligibility using your 2016 financial information and facilitate your re-enrollment into a qualified health plan to ensure there is no gap in coverage from your Medicaid through Aid to Continue and the start date of whatever plan you enroll in as a result of the Marketplace's redetermination.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

