



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

Notice of Decision

Decision Date: January 14, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004512

[REDACTED]

Dear [REDACTED],

On December 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 17, 2015, and August 13, 2015 eligibility redeterminations.

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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 14, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004512

[REDACTED]

Issues

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

Did the Marketplace properly disenroll you from your Medicaid Managed Care plan, effective July 31, 2015?

Did the Marketplace properly determine that you were eligible to receive up to \$269.00 per month in advance premium tax credit and cost sharing reductions, and no longer eligible for Medicaid, effective September 1, 2015?

Procedural History

On November 26, 2014, the Marketplace redetermined your eligibility for financial assistance with your health insurance. You were found conditionally eligible for Medicaid, effective November 1, 2014, based on your reported household income of \$0.00. You were asked to provide citizenship documentation by February 26, 2015 in order to confirm your eligibility for Medicaid.

That same day you enrolled in a Medicaid Managed Care plan through Healthfirst, effective December 1, 2014.

On March 7, 2015 your eligibility was redetermined for financial assistance and you were again found conditionally eligible for Medicaid, effective March 1, 2015. You were asked to provide documentation confirming your citizenship status by June 5, 2015.

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On July 17, 2015, the Marketplace made a determination which stated because you had not provided documentation required to verify your citizenship status your eligibility would end, effective July 31, 2015.

On July 19, 2015, the Marketplace issued a disenrollment notice stating your coverage would end with Healthfirst, effective July 31, 2015.

On August 13, 2015, the Marketplace received your updated application for health insurance. A determination was made on your application which found you eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$269.00 per month effective September 1, 2015. You further found ineligible for Medicaid because your household income of \$21,699.60 was over the allowable income limit of \$16,243.00.

On August 28, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of the August 13, 2015 eligibility redetermination.

A notice of hearing was issued on November 6, 2015 for a scheduled telephone hearing on December 10, 2015.

On December 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open 15 days for you provide proof of your income for the month of August 2015. This documentation was not submitted and, therefore, cannot be considered for purposes of this decision.

Findings of Fact

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

- 1) You testified that you are seeking insurance for yourself.
- 2) You testified that you expected to file your 2015 taxes with a tax filing status of single and will not be claiming any dependents.
- 3) You were asked by the Marketplace to provide documents confirming your citizenship status by February 26, 2015, and again by June 5, 2015.
- 4) The record reflects that, on October 24, 2014, you had uploaded proof of your citizenship status with a copy of your United States passport and Social Security card to your Marketplace account.
- 5) The record further supports that the documentation you provided on October 24, 2014, was not verified by the Marketplace until August 13, 2015.

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- 6) The application that was submitted on August 13, 2015 listed annual household income of \$21,699.60. You testified that this amount was correct but that it varies depending upon the amount of hours you work.
- 7) You testified that your work hours are dependent upon school being in session.
- 8) Your application states that you will not be taking any deductions on your 2015 tax return. Your testimony reflects that this is still accurate.
- 9) Your application states that you live in Kings County, New York.
- 10) The Hearing Officer provided 15 days for you to submit documentation showing your income for the month of August 2015. No documents were received within the timeframe provided.

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

Applicable Law and Regulations

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 that is at or below 138% of the federal poverty level for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

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)).

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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Medicaid - Citizenship Status

A person who meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard is eligible for Medicaid benefits (45 CFR § 155.305(c)). One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. Generally, no person except a United States citizen, naturalized citizen, qualified alien, or person permanently residing in the United States under color of law (PRUCOL) is eligible for full Medicaid benefits (NY Soc. Serv. Law § 122(1); 18 NYCRR § 360-3.2).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

Medicaid - Continuous Coverage

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. This remains true 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. Soc. Serv. Law § 366(4)(c)).

Timely Notice

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 FR § 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).

Legal Analysis

The first issue is whether the Marketplace properly disenrolled you from your Medicaid Managed Care plan effective July 31, 2015.

The Marketplace issued a notice of eligibility determination after receiving your application for financial assistance on November 26, 2014. This determination found you conditionally eligible for Medicaid effective November 1, 2014. The eligibility determination was based on your reported household income of \$0.00. However, you were asked to provide citizenship documentation by February 26, 2015 in order to confirm your eligibility for Medicaid.

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 citizenship status is satisfactory.

If the Marketplace cannot verify an individual's citizenship status, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice. Ninety days from November 26, 2015 would be by February 26, 2015.

The record reflects that on October 24, 2014 you had already uploaded proof of your citizenship status with a copy of your United States passport and Social Security card to your Marketplace account.

On July 17, 2015, the Marketplace made a determination that because you could not provide documentation required to verify your citizenship status, your eligibility would end effective July 31, 2015. You were subsequently issued a disenrollment notice stating your coverage was ended with Healthfirst effective July 31, 2015.

Based upon the information in your Marketplace account, the documentation you provided on October 24, 2014, in the form of your United States passport and Social Security card was not verified by the Marketplace until August 13, 2015.

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application. Your verification

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documentation was provided in order to verify your identity and was not verified until approximately ten months after your initial application.

Therefore the July 17, 2015 eligibility redetermination finding you no longer eligible to remain enrolled in your Medicaid Managed Care plan is **RESCINDED**.

The Marketplace is directed to reinstate your Medicaid Managed Care plan, effective July 31, 2015.

The second issue is whether the Marketplace properly determined that you were eligible to receive up to \$269.00 per month in advance premium tax credit and cost sharing reductions, and no longer eligible for Medicaid effective September 1, 2015.

On November 26, 2014, the Marketplace redetermined your eligibility for financial assistance with your health insurance. You were found conditionally eligible for Medicaid effective November 1, 2014 based upon your household income of \$0.00. That same day you enrolled in Medicaid through Healthfirst effective December 1, 2015.

On August 13, 2015, the Marketplace received your updated application for health insurance due to your disenrollment from your Medicaid Managed Care plan on July 31, 2015. That determination found you eligible to receive advance premium tax credits and cost sharing reductions in the amount of \$269.00 per month effective September 1, 2015. You were further found ineligible for Medicaid because your newly reported household income of \$21,699.60 was over the allowable income limit of \$16,243.00 for Medicaid.

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.

The start date of your original Medicaid eligibility determination on November 26, 2014 would be November 1, 2014. Despite your income increasing over the allowable Medicaid limit, your coverage should have remained in effect based upon continuous coverage for the full 12 month period of eligibility; that is, until October 31, 2015.

Therefore the August 13, 2015, eligibility determination is **MODIFIED** to reflect that you remain eligible for Medicaid under continuous coverage until the end of your current 12 month period of eligibility, which date is October 31, 2015.

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The Marketplace is directed to redetermine your eligibility for financial assistance as of November 1, 2015, using an annual household income of \$21,699.60 for a one-person household in Kings County.

Decision

The July 17, 2015 eligibility redetermination finding you no longer eligible to remain enrolled in your Medicaid Managed care plan is **RESCINDED**.

The Marketplace is directed to reinstate your Medicaid Managed Care plan, effective July 31, 2015.

The August 13, 2015, eligibility determination is **MODIFIED** to reflect that you remain eligible for Medicaid under continuous coverage until the end of your 12 month period of eligibility, which date is October 31, 2015.

The Marketplace is directed to redetermine your eligibility for financial assistance as of November 1, 2015, using an annual household income of \$21,699.60 for a one-person household in Kings County.

Effective Date of this Decision: January 14, 2016

How this Decision Affects Your Eligibility

You remain eligible for Medicaid until the end of your twelve months of continuous coverage, which is October 31, 2015.

The Marketplace will redetermine your eligibility for financial assistance as of November 1, 2015, using an annual household income of \$21,699.60 for a one-person household in Kings County. The Marketplace will issue a notice regarding your eligibility as redetermined.

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

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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 17, 2015 eligibility redetermination finding you no longer eligible to remain enrolled in your Medicaid Managed care plan is **RESCINDED**.

The Marketplace is directed to reinstate your Medicaid Managed Care plan, effective July 31, 2015.

The August 13, 2015, eligibility determination is **MODIFIED** to reflect that you remain eligible for Medicaid under continuous coverage until the end of your 12 month period of eligibility, which date is October 31, 2015.

The Marketplace is directed to redetermine your eligibility for financial assistance as of November 1, 2015, using an annual household income of \$21,699.60 for a one-person household in Kings County.

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You remain eligible for Medicaid until the end of your twelve months of continuous coverage, which is October 31, 2015.

The Marketplace will redetermine your eligibility for financial assistance as of November 1, 2015, using an annual household income of \$21,699.60 for a one-person household in Kings County. The Marketplace will issue a notice regarding your eligibility as redetermined.

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:

