



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

## Notice of Decision

Decision Date: January 29, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004631

[REDACTED]

Dear [REDACTED],

On December 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's 2014 and 2015 Medicaid Fee-For-Service determinations relative to your eligibility.

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
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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).

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## Decision

Decision Date: January 29, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004631

[REDACTED]

## Issue

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

Did the Marketplace properly determine that you were eligible for Medicaid Fee-For-Services as of November 1, 2014 and then again as of April 1, 2015, but could not enroll in a Medicaid Managed Care plan?

## Procedural History

On May 8, 2014, the Marketplace issued a notice of eligibility redetermination that in part stated you were eligible for Medicaid effective May 1, 2014 and needed to pick a Medicaid Managed Care (MMC) plan.

On July 2, 2014, the Marketplace issued an enrollment notice confirming in part that you were enrolled in an MMC plan with MVP Health Plan, Inc., with coverage beginning August 1, 2014.

In the November 27, 2014 notice of eligibility redetermination issued by the Marketplace, you were found to be no longer eligible for Medicaid but were given Medicaid continuous coverage beginning November 1, 2014 through April 30, 2015. The notice informed you that you could continue to access benefits through Medicaid Fee-For Service during this timeframe.

On December 9, 2014, the Marketplace issued an enrollment notice confirming that you did not need to pick a health plan and that you had health insurance coverage under Medicaid as of November 1, 2014; that is, with Medicaid Fee-For-Services.

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On January 23, 2015, the Marketplace issued another notice of eligibility redetermination with the same findings as contained in the November 27, 2014 notice.

That same day, the Marketplace issued another enrollment notice with the same information regarding your enrollment as contained in the December 9, 2014 enrollment notice.

On March 8, 2015, the Marketplace issued a renewal notice that stated, based on the information from federal and state sources, a decision about whether or not you qualify for financial help could not be made. The notice instructed you to update the information on your NY State of Health account by April 15, 2015 so that an appropriate decision could be made and, if you miss this deadline, the financial assistance you were then getting might end.

On March 21, 2015, the Marketplace issued a letter that stated the income information you provided does not match what it had obtained from federal and state data sources. That letter further stated that an eligibility determination could not be made until you provided and it was able to confirm additional information. The notice instructed you to submit income documentation for your household by April 7, 2015 so it could confirm that the information you provided in your application was accurate.

That same day, the Marketplace issued a disenrollment notice that in part stated your enrollment in Medicaid Fee-For-Services would be discontinued effective April 30, 2015.

On March 22, 2015, the Marketplace again issued a letter that stated you needed to submit income documentation for your household by April 7, 2015.

On March 26, 2015, the Marketplace issued another letter that stated you needed to submit income documentation for your household by April 12, 2015.

On April 14, 2015, you uploaded a copy of the NYS Department of Labor Unemployment Insurance Monetary Benefit Determination that said you do not qualify for Unemployment Insurance benefits as of March 16, 2015 (Appellant's Exhibit A).

On April 27, 2015, you uploaded a copy of an April 24, 2015 letter of separation from your employer, which indicated your position ended January 21, 2015 (Appellant's Exhibit B).

On April 29, 2015, the Marketplace issued a notice of eligibility redetermination that said you were eligible for Medicaid, effective May 1, 2015.

On April 30, 2015, the Marketplace issued an enrollment notice that in part stated you did not need to pick a health plan and your insurance coverage with Medicaid Fee-For-Services would begin May 1, 2015.

On August 8, 2015, the Marketplace issued another enrollment notice that stated you did not need to pick a plan. That notice also confirmed the rest of your family's enrollment in a Medicaid Managed Care (MMC) plan with MVP Health Plan, Inc.

On September 1, 2015, you uploaded a copy of an August 31, 2015 letter from MVP Health Care stating that you were enrolled with them effective August 1, 2014 and your coverage terminated on October 31, 2014 (Appellant's Exhibit C).

On September 5, 2015, the Marketplace issued a notice of eligibility redetermination that in part stated you were eligible for Medicaid effective September 1, 2015.

On September 8, 2015, you spoke to the Marketplace's Account Review Unit and appealed the denial of your request to have your MMC plan backdated to January 1, 2015.

On September 9, 2015, the Marketplace issued an enrollment notice confirming in part that you were enrolled in an MMC plan, with MVP Health Plan, Inc., effective October 1, 2015.

On December 3, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit supporting documentation.

On December 4, 2015, you uploaded three documents to your Marketplace account, including your MVP Health Care insurance identification card, and 2 invoices for medical treatment you received in 2015. On December 8, 2015, you uploaded one document to your Marketplace account, 1 invoice for medical treatment you received in 2015. Each of these documents have been assigned a Document Identification Number in your Marketplace account and have been made part of the record accordingly. Since no further documents were expected, the record was closed that same day.

## **Findings of Fact**

- 1) According to your Marketplace account and your testimony, from January 1, 2014 through April 30, 2014, you were enrolled in a silver-level qualified health plan health insurance with MVP Health Care through the Marketplace.
- 2) According to your Marketplace account, you were found eligible for Medicaid, effective May 1, 2014 and, therefore, were disenrolled from the silver-level QHP effective April 30, 2015. You had health insurance under Medicaid Fee-For-Services as of May 1, 2014, and were enrolled in the MMC plan through MVP Health Plan Inc. you had selected, effective August 1, 2014 to October 31, 2014.

- 3) You testified that you began experiencing problems with your health coverage in August 2014 and you think it was because your enrollment in the silver-level QHP was not properly terminated.
- 4) According to an August 31, 2015 letter from MVP Health Care, you had coverage from August 1, 2014 through October 31, 2014 under ID# [REDACTED] (Appellant's Exhibit C). According to your MVP Health Care insurance identification card bearing the same number, this coverage was through its Medicaid Managed Care plan and began August 1, 2014 (see Document [REDACTED]). This information is also contained in your Marketplace account under your enrollment details and in the July 2, 2014 enrollment notice issued by the Marketplace.
- 5) You testified that sometime in November 2014, you reported to the Marketplace that you had started a new job and your eligibility was redetermined.
- 6) According to your Marketplace account, on November 27, 2014, you were taken out of your MMC plan and found eligible for Medicaid Fee-For-Services from November 1, 2014 to April 30, 2015.
- 7) You testified and provided a letter of separation from your employer that your position ended on January 21, 2015 (Appellant's Exhibit B).
- 8) According to your Marketplace account, you were sent a renewal notice because the 12 months of Medicaid continuous coverage was due to expire on April 30, 2015.
- 9) According to the March 21, 2015 disenrollment notice, you were informed that your Medicaid Fee-For-Services coverage would end April 30, 2015.
- 10) As requested, you uploaded proof of no income on April 14, 2015 via a March 23, 2015 notice from the NYS Department of Labor, which stated you did not meet the earnings requirement to qualify for Unemployment Insurance benefits, effective March 16, 2015 (Appellant's Exhibit A).
- 11) On April 29 and 30, 2015, the Marketplace issued notices that stated you were eligible for Medicaid Fee-For-Services effective May 1, 2015, and did not need to pick a plan.
- 12) After you provided the August 31, 2015 letter verifying your enrollment with MVP Health Care, on September 5, 2015, the Marketplace redetermined your eligibility for Medicaid, which was made effective September 1, 2015.
- 13) On September 8, 2015, the Marketplace verbally denied your request to have your MMC Plan backdated to January 1, 2015, and on September 9, 2015, it

issued an enrollment notice confirming your enrollment in an MVP MMC plan, effective October 1, 2015.

- 14) You testified that you went to your primary care provider (PCP) on February 17, 2015, and MVP paid for the visit then charged back the bill. You testified that your PCP does not accept Medicaid Fee-For-Services and you have since been rebilled for this visit (see Document [REDACTED]).
- 15) You testified that you also had specialist visits during 2015, which bills were either paid by MVP and then charged back or not paid at all (see Documents [REDACTED] and [REDACTED]). You testified that the specialists you treated with do not accept Medicaid Fee-For-Services.
- 16) You testified that you want your MMC plan to be made effective January 1, 2015 and continuing so that your medical bills are covered.
- 17) You testified that you enlisted the assistance of your State Representative and his staff informed you that the Marketplace had been contacted and stated you could not have coverage under an MMC plan because you had Third Party Health Insurance and needed a letter from MVP to indicate that the coverage had ended, which you then provided (see Fact #4 above).
- 18) You testified that when you contacted the Marketplace after providing such proof, you were told by the Marketplace that the real reason that your request to have your MMC plan backdated was being denied was because you were in Medicaid Fee-For-Services.

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

## **Applicable Law and Regulations**

### Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

### Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

### Medicaid Managed Care Plans

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Generally, with regard to enrollment in a Medicaid Managed Care plan (MMC), Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC plan (18 NYCRR § 360-10.4(a)).

A Medicaid recipient who has primary medical or health care coverage available from a Third-Party payor may be required to enroll with a managed care program when the payment of the premium or cost sharing amounts would be cost-effective, as determined by the local social services district (NY Soc. Serv. Law § 364-j(3)(e)(xx)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

### 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 (N.Y. Soc. Serv. Law § 366(4)(c)).

## **Legal Analysis**

The first issue is whether the Marketplace properly disenrolled you from your MMC plan enrollment with MVP Health Care, effective October 31, 2014.

Since you were found Medicaid eligible as of May 1, 2014, you were entitled to 12 months of continuous coverage including the coverage you had under your MMC plan. According to the credible evidence of record, your enrollment in the MVP MMC plan you had selected was effective as of August 1, 2014, and the only change that occurred was that you gained employment in the fall of 2014 resulting in a change in income. However, this event and change in income do not disqualify you from having continuous coverage in that MVP MMC Plan. Accordingly, the Marketplace erred in disenrolling you from your MMC plan effective October 31, 2014 and finding you Medicaid eligible under Medicaid Fee-For-Services as of November 1, 2014 and for the duration of the 12 months of continuous coverage; that is, through April 30, 2015. Therefore, the eligibility redeterminations and enrollments made and corresponding notices issued by the Marketplace between November 26, 2014 and January 23, 2015 are RESCINDED.

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By this decision, the Marketplace is instructed to reinstate your coverage under your MMC plan with MVP Health Care as of November 1, 2014 through April 30, 2015.

The second issue is whether the Marketplace properly determined that you were eligible for Medicaid upon renewal, but only able to enroll in Medicaid Fee-For-Services because the system picked up that you had Third Party Health Insurance.

Initially, there is no dispute that the Marketplace is required to redetermine an enrollee's eligibility for Medicaid every 12 months, which is what it was attempting to do when it issued the March 2015 notices. After you provided the necessary income documents, the Marketplace properly redetermined your eligibility for Medicaid, effective May 1, 2015.

Therefore, the March 2015 notices and letters and the April 29, 2015 notice of eligibility redetermination are correct and remain in effect.

Generally, when an individual is eligible for Medicaid through the Marketplace, they are required to enroll in an MMC plan. However, when a person has active coverage in a health insurance plan outside of the Marketplace, they are not eligible to enroll in an MMC plan.

In your case, the Marketplace issued enrollment confirmation notices on August 30, 2015 and August 8, 2015, stating that the type of Medicaid coverage you had, that is, Medicaid Fee-For-Service, did not require you to pick a plan.

You testified that staff from your State Representative's office confirmed that this was because the Marketplace system was showing you had Third Party Health Insurance and you needed to submit a letter showing the coverage had terminated, which you then provided. According to the August 31, 2015 letter from MVP Health Care, your coverage in the MMC plan you were enrolled in was cancelled effective October 31, 2014, which is corroborated in the enrollment details in your Marketplace account.

Notwithstanding, because the system detected that you had Third Party Health Insurance, you were considered to have minimum essential coverage by the system and not allowed to select an MMC plan for yourself.

However, the credible evidence of record demonstrates that you had health insurance with MVP Health Care from August 1, 2014 to October 31, 2014 through an MMC plan and Medicaid Fee-For-Services from November 1, 2014 to April 30, 2015, such that you did not have Third Party Health Insurance coverage during that time period. Therefore, the system's detection of Third Party Health Insurance, which resulted in you being unable to select an MMC plan, is not supported by the record.

We find, based on the verification of coverage letter from MVP Health Care, dated August 31, 2015, as confirmed by your MVP Health Care insurance identification cards and your Marketplace account, you were not covered under Third Party Health

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Insurance as of April 29, 2015 when your eligibility for Medicaid was determined to be effective May 1, 2015, and the Marketplace's determination that you had Third Party Health Insurance coverage was incorrect.

Therefore, the April 30, 2015 enrollment notice is MODIFIED in relevant part to state that you have Medicaid, effective May 1, 2015, and need to pick a plan for coverage under an MMC plan to begin.

Presumably, you would have selected a health plan on or about April 30, 2015 when the enrollment notice was issued had you been afforded the opportunity. If you had done so, your coverage under the MMC plan you selected would have taken effect the first of the second following month; that is, on June 1, 2015.

Therefore, this case is REMANDED to the Marketplace to enroll you in the MVP MMC Plan you later selected, with an effective date of June 1, 2015.

Accordingly, the September 9, 2015 enrollment notice as it relates to your enrollment date in the MVP MMC Plan, effective October 1, 2015, is RESCINDED.

## **Decision**

The Marketplace's eligibility redeterminations and enrollments made and corresponding notices issued between November 26, 2014 and January 23, 2015 are RESCINDED.

The Marketplace's March 2015 notices and letters and the April 29, 2015 notice of eligibility redetermination are correct and REMAIN IN EFFECT.

The Marketplace's April 30, 2015 enrollment notice is MODIFIED in relevant part to state that you have health insurance with Medicaid, effective May 1, 2015, and need to pick a plan for coverage under an MMC plan to begin.

This case is REMANDED to the Marketplace to ensure that you are enrolled in the MVP MMC Plan you had later selected, with an effective date of June 1, 2015, and to inform you accordingly.

The Marketplace's September 9, 2015 enrollment notice as it relates to your enrollment date in the MVP MMC Plan, effective October 1, 2015, is RESCINDED.

**Effective Date of this Decision:** January 29, 2016

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

This decision does not change your eligibility.

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You were eligible for and had Medicaid Fee-For-Services from May 2014 to July 31, 2014.

Your health insurance coverage under your MMC plan should have remained in place under continuous coverage from August 1, 2014 to April 30, 2015. To bring your coverage in line with this decision, the Marketplace is directed to reinstate your MMC plan coverage as of November 1, 2014 through April 30, 2015, and inform you accordingly.

You were determined Medicaid eligible upon renewal, effective May 1, 2015.

You have health insurance coverage under Medicaid Fee-For-Services, effective May 1, 2015 to May 31, 2015.

The Marketplace is directed to ensure that you are enrolled in the MVP MMC Plan you had later selected, with an effective date of June 1, 2015, and for the remainder of the 12 months of continuous coverage during your current eligibility period.

Once the above-noted corrections are effectuated, you will be notified by the Marketplace and can then submit your medical bills to the insurer for your claims to be processed and your bills to be paid.

## **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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- By mail at:  
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- By fax: 1-855-900-5557

## **Summary**

The Marketplace's eligibility redeterminations and enrollments made and corresponding notices issued between November 26, 2014 and January 23, 2015 are **RESCINDED**.

The Marketplace's March 2015 notices and letters and the April 29, 2015 notice of eligibility redetermination are correct and **REMAIN IN EFFECT**.

The Marketplace's April 30, 2015 enrollment notice is **MODIFIED** in relevant part to state that you have health insurance with Medicaid, effective May 1, 2015, and need to pick a plan for coverage under an MMC plan to begin.

This case is **REMANDED** to the Marketplace to ensure that you are enrolled in the MVP MMC Plan you had later selected, with an effective date of June 1, 2015, and to inform you accordingly.

The Marketplace's September 9, 2015 enrollment notice as it relates to your enrollment date in the MVP MMC Plan, effective October 1, 2015, is **RESCINDED**.

This decision does not change your eligibility.

You were eligible for and had Medicaid Fee-For-Services from May 2014 to July 31, 2014.

Your health insurance coverage under your MMC plan should have remained in place under continuous coverage from August 1, 2014 to April 30, 2015. To bring your coverage in line with this decision, the Marketplace is directed to reinstate your MMC plan coverage as of November 1, 2014 through April 30, 2015, and inform you accordingly.

You were determined Medicaid eligible upon renewal, effective May 1, 2015.

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You have health insurance coverage under Medicaid Fee-For-Services, effective May 1, 2015 to May 31, 2015. You have health insurance under MVP's MMC plan, effective June 1, 2015.

The Marketplace is directed to ensure that you are enrolled in the MVP MMC Plan you had later selected, with an effective date of June 1, 2015, and for the remainder of the 12 months of continuous coverage during your current eligibility period.

Once the above-noted corrections are effectuated, you will be notified by the Marketplace and can then submit your medical bills to the insurer for your claims to be processed and your bills to be paid.

## **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:**

