



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

Notice of Decision

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004682

[REDACTED]

Dear [REDACTED],

On December 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 21, 2015 disenrollment notice and the September 12, 2015 eligibility determinations, as well as your eligibility for a health insurance exemption for 2015.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004682



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 coverage effective February 28, 2015?

Did the Marketplace properly find you eligible for up to \$207.00 per month in advance payments of the premium tax credit, eligible for cost-sharing reductions, and ineligible for Medicaid, effective October 1, 2015?

Did the Marketplace properly find that you were ineligible for retroactive Medicaid coverage during June, July, and August 2015?

Based on your interactions with NY State of Health, do you qualify for a health insurance exemption for 2015?

Procedural History

On March 4, 2014, the Marketplace issued a notice confirming your selection to receive all information for the NY State of Health electronically.

On March 5, 2014, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid, effective March 1, 2014. This notice also confirmed your selection of New York State Catholic Health Plan, Inc. (Fidelis Care) as your Medicaid Managed Care (MMC) plan. Finally, the notice stated that your Medicaid coverage would begin March 1, 2014 and enrollment with Fidelis Care would begin April 2014.

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On January 8, 2015, the Marketplace issued notice stating that it was time to renew your NY State of Health coverage. The notice further stated that you needed to select a new plan because you were no longer eligible to remain enrolled in your existing plan. You were found eligible for up to \$235.74 per month in advance payments of the premium tax credit (APTC); eligible for cost-sharing reductions (CSR), provided you selected a silver-level plan; and not eligible for Medicaid. This eligibility determination was effective March 1, 2015. Finally, the notice advised you make any necessary changes to your account between January 16, 2015 and February 15, 2015 for any such changes to take effect by March 1, 2015.

On January 19, 2015, the Marketplace received a revised application in which you attested to an expected yearly income of \$9,590.00.

On January 20, 2015, the Marketplace issued a notice stating that, based on the information contained in your January 19, 2015 application, you might be eligible for health insurance through NY State of Health; however, more information was needed to make a determination. You were directed to provide income documentation for your household by February 6, 2015 to confirm the information you provided in your application was accurate, or you might lose your eligibility to enroll in coverage or for financial assistance.

On January 21, 2015, the Marketplace issued a disenrollment notice confirming that your coverage with Fidelis Care would end effective February 28, 2015.

On September 11, 2015, the Marketplace received a revised application in which you attested to an annual household income of \$20,445.00. You also attested that you were seeking help with paying medical bills for the three month period to your application. On that same date, the Marketplace prepared a preliminary determination based on the information contained in your September 11, 2015 application. The preliminary determination found you eligible for up to \$207.00 per month in APTC, as well as CSR, effective March 1, 2015.

Also on September 11, 2015, you spoke to the Marketplace's Account Review Unit and appealed the February 28, 2015 disenrollment notice and the September 11, 2015 preliminary determination insofar as you were found ineligible for Medicaid.

On September 12, 2015, the Marketplace issued an eligibility redetermination notice stating that you were eligible for an APTC of up to \$207.00 per month; eligible for CSR, provided you selected a silver-level plan; and not eligible for Medicaid. This eligibility determination was effective October 1, 2015.

Also on September 12, 2015, the Marketplace issued an eligibility determination notice stating that your request for help with paying medical bills during June,

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July, and August 2015 had been denied. This determination was issued because “coverage in a qualified health plan is limited to services covered by the health plan.”

On December 11, 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) a signed letter issued by your employer reflecting the gross income you were paid during June, July, August, and September 2015, and (2) a Notice of Award issued by the Social Security Administration reflecting your Social Security benefits beginning July 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 December 18, 2015, you provided the above referenced documents to the Appeals Unit via facsimile.

The record was closed on December 18, 2015.

Findings of Fact

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

- 1) You were found eligible for Medicaid coverage effective March 1, 2014.
- 2) You enrolled in a Fidelis Care MMC plan, with such coverage beginning April 1, 2015.
- 3) You elected to receive all correspondence from the Marketplace electronically. Your application reflects that the e-mail address you selected for the delivery of such correspondence was [REDACTED] You testified that this was accurate.
- 4) The Marketplace issued a renewal notice on January 8, 2015, requesting that you update your account by February 15, 2015.
- 5) You testified that you did not receive any e-mail or U.S. Mail correspondence stating that you had to renew your coverage.
- 6) You testified that you in fact received several e-mail notices from the Marketplace around January 2015, but those e-mails had been redirected to your junk mail or spam folder.

- 7) On January 19, 2015, you logged into your Marketplace account with the ID "[REDACTED]". In that application, you attested to an expected yearly income of \$9,590.00.
- 8) Based on the information contained in your January 19, 2015 application, the Marketplace was unable to issue a determination. The Marketplace issued a letter requesting that you provide income documentation by February 6, 2015, in order to confirm your eligibility.
- 9) The record does not reflect that you provided any further documentation to the Marketplace by February 6, 2015.
- 10) You were disenrolled from your Fidelis Care MMC effective February 28, 2015.
- 11) You testified, and your application reflects, that you are unmarried and have no children.
- 12) You defied that you anticipate filing your 2015 tax return with a filing status of single. You will not claim any dependents on that tax return.
- 13) You submitted a revised application on September 11, 2015 in which you attested to an annual household income of \$20,445.00, which was comprised of (1) \$10.00 per hour in earnings over 30 hour per week from your employer, [REDACTED], and (2) \$969.00 per month in Social Security benefits. You testified that these amounts were accurate.
- 14) You live in Erie County, New York.
- 15) You testified that in addition to seeking reinstatement in your Medicaid plan in order to cover dental expenses you incurred during July 2015. You were also looking to avoid paying a penalty for not having had health insurance for a portion of 2015.
- 16) On December 18, 2015, you provided to the Appeals Unit via facsimile (1) a copy of your Notice of Award from the Social Security Administration (SSA), dated April 28, 2015, reflecting that you would receive your first payment of \$969.99 for July 2015 around August 25, 2015, and on or about the fourth Wednesday of each month thereafter, and (2) signed letters from your employer, [REDACTED], each dated as of December 16, 2015, reflecting that you received \$1,071.00 during June 2015, \$1,573.00 during July 2015, \$1,112.50 during August 2015 and \$1,210.00 during September 2015.

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

Applicable Law and Regulations

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 \$11,770.00 for a one-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).

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)).

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)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic

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notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$11,670.00 for a one-person household (80 Fed. Reg. 3236, 3237).

For annual household income in the range of at least 150% but less than 200% of the 2015 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through the Marketplace, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Retroactive Medicaid

Medicaid coverage may 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)).

Exemptions

A shared responsibility payment may be imposed with respect to a non-exempt individual who does not maintain minimum essential coverage. However, an exemption may relieve an individual from the shared responsibility payment (45 CFR § 155.600(a)).

An exemption may be granted to an applicant for at least before, a month or months during which, and the month after, if it is determined the individual(s) experienced circumstances that prevented them from obtaining coverage under a qualified health plan (45 CFR § 155.605(g)(1)(iii)).

The Marketplace may adopt an exemption eligibility determination made by HHS for an exemption application that is submitted before the start of open enrollment for 2016 (45 CFR § 155.625(b)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were no longer eligible for Medicaid coverage, effective February 28, 2015.

The record reflects that you were first enrolled in Medicaid coverage on March 1, 2014. Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

Accordingly, your 12 months of continuous Medicaid coverage was due to conclude on February 28, 2015, pending a new determination of eligibility.

Since your Medicaid coverage was due to expire on February 28, 2015, the Marketplace was required to issue renewal notices to ensure seamless insurance coverage as of March 1, 2015. The record reflects that the Marketplace issued a notice on January 8, 2015 stating that it was time to renew your NY State of Health coverage. The Marketplace's January 8, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage, and that you needed to supply additional information by February 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, your enrollment in your Medicaid Managed Care (MMC) plan was terminated effective February 28, 2015.

You testified that you received no notice advising you of the need to update your account, either electronically or by mail. However, you further testified that you learned afterwards that several of the e-mails sent by the Marketplace were redirected into your junk mail or spam folder on e-mail account, which was "[REDACTED]". Furthermore, the record reflects that you personally updated your account on January 19, 2015 to reflect a change in expected income during 2015 in an attempt to provide the additional income information to the Marketplace. Since the record reflects that not only were e-mails from the Marketplace delivered to your e-mail account (albeit your junk mail or spam folder), and you actively updated your Marketplace account on January 19, 2015, we find that there sufficient evidence that the renewal e-mail was properly delivered to you.

The Marketplace sent an additional notification on January 20, 2015 stating that you might be eligible for health insurance through the NY State of Health; however, more information was needed to make a determination. You were directed to provide income documentation for your household by February 6, 2015 to confirm the information you provided in your application was accurate. The record reflects that no further income documentation was delivered to the Marketplace by February 6, 2015.

Therefore, the Marketplace's January 21, 2015 disenrollment notice confirming that your Medicaid coverage would end effective February 28, 2015 is **AFFIRMED**.

The second issue is whether the Marketplace properly determined that you were eligible to receive up to \$207.00 per month in advance payments of the premium tax credit (APTC); eligible for cost-sharing reductions (CSR); and ineligible for Medicaid, effective October 1, 2015.

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In the application that was submitted on September 11, 2015, you attested to an expected yearly income of \$20,445.00, which included \$15,600.00 (\$10.00 per hour x 30 hours per week x 52 weeks) and \$4,845.00 (\$969.00 x 5 months) in Social Security benefits. The eligibility determination relied upon that information.

According to the record you are the only person in your tax household.

You reside in Erie County, where the second lowest cost silver plan available for an individual through the Marketplace costs \$295.03 per month.

An annual income of \$20,445.00 is 175.19% of the 2014 FPL for a one-person household. At 175.19% of the FPL, the expected contribution to the cost of the health insurance premium is 5.19% of income, or \$88.41 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through the Marketplace for an individual in your county (\$295.03 per month) minus your expected contribution (\$88.41 per month), which equals \$206.62 per month. Therefore, rounding to the nearest dollar, the Marketplace correctly determined your APTC to be \$207.00 per month.

Cost-sharing reductions (CSR) are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$20,445.00 is 175.19% of the 2014 FPL, the Marketplace correctly found you to be eligible for CSR.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$20,445.00 is 173.70% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the September 12, 2015 eligibility determination properly stated that, based on the information you provided, you were eligible for an APTC of up to \$207.00 per month, eligible for CSR, and not eligible for Medicaid, it is correct and is AFFIRMED.

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, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month.

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At the request of the Hearing Officer, you provided income documentation reflecting that you received \$969.00 in Social Security benefits and a total of \$1,210.00 in earned income from your employer, [REDACTED], during the month of your revised application, which was September 2015.

Since your income was \$2,179.00 for September 2015, you did not qualify for Medicaid on the basis of monthly income when you submitted your revised application.

The third issue under review is whether the Marketplace properly determined that you were ineligible for retroactive Medicaid coverage for the months of June, July and August 2015, as reflected in the September 12, 2015 eligibility determination.

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 and if they would have been eligible for Medicaid in those three months had they applied; provided, however, that the individual must have been first found eligible for Medicaid coverage as a result of their application.

Since the September 12, 2015 eligibility determination found you to be ineligible for Medicaid coverage as a result of your income level, you were properly found to be ineligible for retroactive Medicaid coverage for the months of June, July and August 2015. Accordingly, the separate eligibility determination notice issued on September 12, 2015 is correct and must be AFFIRMED.

The final issue under review is whether you qualify for a health insurance exemption for 2015.

Based on the facts in the record and the Appellant's testimony, the Appeals Unit finds that the NY State of Health Marketplace did not err in disenrolling you from your Medicaid coverage, effective February 28, 2015.

Decision

The January 21, 2015 disenrollment notice is AFFIRMED.

Each of the September 12, 2015 eligibility determination notices are AFFIRMED.

The Marketplace did not err in disenrolling you from your Medicaid coverage, effective February 28, 2015.

Effective Date of this Decision: February 4, 2016

How this Decision Affects Your Eligibility

Your Medicaid coverage ended effective February 28, 2015.

You are eligible for an APTC of up to \$207.00 per month and, if you selected a silver-level plan, CSR, effective October 1, 2015.

You are not eligible for Medicaid.

You are not eligible for retroactive Medicaid for the months of June, July, and August 2015.

This Decision has no effect on any subsequent eligibility determination issued on or after September 12, 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)).

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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 21, 2015 disenrollment notice is AFFIRMED.

Each of the September 12, 2015 eligibility determination notices are AFFIRMED.

The Marketplace did not err in disenrolling you from your Medicaid coverage, effective February 28, 2015.

Your Medicaid coverage ended effective February 28, 2015.

You are eligible for an APTC of up to \$207.00 per month and, if you selected a silver-level plan, CSR, effective October 1, 2015.

You are not eligible for Medicaid.

You are not eligible for retroactive Medicaid for the months of June, July, and August 2015.

This Decision has no effect on any subsequent eligibility determination issued on or after September 12, 2015.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

