



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: AP000000004932

[REDACTED]

Dear [REDACTED],

On January 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 16, 2015 eligibility determination.

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(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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NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine that you and your spouse were not eligible for Medicaid, effective November 1, 2015?

Procedural History

On April 2, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid and your spouse was conditionally eligible for Medicaid, because your household income of \$32,000.00 was at or below the allowable income limit for that program. This eligibility was effective as of May 1, 2015.

Also on April 2, 2015 the Marketplace issued an enrollment confirmation notice stating that you and your spouse were enrolled in a Medicaid Managed Care (MMC) plan effective May 1, 2015.

On April 3, 2015 the Marketplace issued an eligibility determination notice stating that you and your spouse remained eligible for Medicaid, effective May 1, 2015.

On October 5, 2015 your Marketplace account was updated to reflect that you and your spouse were no longer seeking health insurance coverage through the Marketplace.

On October 6, 2015 a disenrollment notice was issued stating that you and your spouse were no longer eligible to enroll in health insurance coverage through the

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Marketplace, and that your coverage through your MMC plan would end effective October 31, 2015.

On October 15, 2015 your Marketplace account was updated to reflect that you and your spouse were seeking health insurance coverage through the Marketplace. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to receive up to \$536.00 per month in APTC, as well as cost-sharing reductions, effective November 1, 2015.

That same day, your certified application counselor contacted the Marketplace's Account Review Unit and appealed the October 15, 2015 preliminary eligibility determination on your behalf, insofar as you were not found eligible for Medicaid.

On October 16, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$536.00 per month in APTC, as well as cost-sharing reductions, effective November 1, 2015. The determination also stated that you and your spouse were not eligible for Medicaid because your household income of \$44,208.72 was over the allowable income limit for that program.

On January 11, 2016, 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 supports the following findings of fact:

- 1) You expect to file your 2015 federal income tax return with your spouse as married, filing jointly, and claim two dependents on that tax return.
- 2) According to the April 1, 2015 and April 2, 2015 applications, you attested to an expected annual household income of \$32,000.00, consisting of \$21,000.00 income you expected to receive and \$11,000.00 in income your spouse expected to receive. You testified that, at the time you submitted your application, this income was an accurate reflection of your household's expected income for the 2015 tax year.
- 3) The record reflects that on October 5, 2015, username "[REDACTED]" accessed your account and marked you and your spouse as not seeking health insurance through the Marketplace.

- 4) You testified, and the record reflects, that you went to a certified application counselor for assistance in updating your Marketplace account.
- 5) You testified that you and your spouse were incorrectly marked as not seeking health insurance by your certified application counselor.
- 6) The record reflects that on October 15, 2015, your Marketplace account was accessed again and you and your spouse were marked as seeking health insurance through the Marketplace. That day, your income information also changed to reflect that your expected household income was now \$44,208.72, consisting of \$34,208.72 in income that you expect to receive and \$10,000.00 in income that your spouse expects to receive.
- 7) The Appeal Summary in the Marketplace's Evidence Packet states that your certified application counselor requested an appeal because she incorrectly marked you and your spouse as not applying and as a result the system deleted your Medicaid effective October 31, 2015.
- 8) You testified that you are seeking to have Medicaid coverage for you and for your spouse reinstated effective November 1, 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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

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)).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you and your spouse were not eligible for Medicaid effective November 1, 2015.

You are in a four-person household. According to the record, you expect to file your 2015 tax return as married, filing jointly, and to claim two children as dependents on that tax return.

On your April 1, 2015 and April 2, 2015 application, you attested to an expected household income of \$32,000.00. You credibly testified that this was an accurate reflection at the time of your 2015 household income.

On April 3, 2015 the Marketplace issued an eligibility determination notice based on the information contained in your Marketplace application stating that you and your spouse remain eligible for Medicaid, effective May 1, 2015.

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 \$24,250.00 for a four-person household. Since \$32,000.00 is 131.96% of the 2015 FPL, the Marketplace properly found you and your spouse to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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.”

The record reflects that on October 5, 2015, your certified application counselor mistakenly caused you and your spouse to be disenrolled from Medicaid effective October 31, 2015 by marking you and your spouse as not seeking insurance. On October 15, 2015, your account was updated to reflect that you and your spouse were seeking insurance through the Marketplace; however, your household income in the October 15, 2015 application increased to \$44,208.72.

As a result, the Marketplace determined on October 16, 2015 that you and your spouse were not eligible for Medicaid.

However, since you and your spouse were correctly determined eligible for Medicaid based on the applications you submitted on April 1, 2015 and April 2, 2015, you both should have remained eligible for Medicaid for 12 continuous months, regardless of any increases in your household income.

Since you and your spouse should have received Medicaid coverage for 12 continuous months, the Marketplace’s October 16, 2015 eligibility determination notice stating that you and your spouse were not eligible for Medicaid is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your and your spouse’s Medicaid coverage through your Medicaid Managed Care plan for the remainder of your Medicaid eligibility year.

Decision

The October 16, 2015 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your and your spouse’s Medicaid coverage through your Medicaid Managed Care plan for the remainder of your Medicaid eligibility year.

Effective Date of this Decision: February 4, 2016

How this Decision Affects Your Eligibility

You and your spouse were eligible for Medicaid effective May 1, 2015 and remain eligible for Medicaid under the continuous coverage provision of the law through April 30, 2016.

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).

Your case is being sent back to the Marketplace to facilitate your and your spouse's reinstatement in your Medicaid coverage.

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

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Summary

The October 16, 2015 eligibility determination is RESCINDED. Your case is RETURNED to the Marketplace to reinstate your and your spouse's Medicaid coverage through your Medicaid Managed Care plan for the remainder of your Medicaid eligibility year.

You and your spouse were eligible for Medicaid effective May 1, 2015 and remain eligible for Medicaid under the continuous coverage provision of the law through April 30, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

