



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

Notice of Dismissal

Decision Date: February 1, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004941

[REDACTED]

Dear [REDACTED],

On January 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 2015 eligibility determination 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(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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004941

[REDACTED]

Issue

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

Was your appeal of the Marketplace's April 17, 2015 eligibility determination timely?

Procedural History

On March 8, 2015, the Marketplace issued a notice stating that it was time to renew your health insurance for the upcoming year. 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 April 15, 2015, or you might lose the financial assistance you were receiving.

No updates were made to your account by April 15, 2015.

On April 17, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were no longer eligible for Medicaid because you had not responded to the renewal notice and had not completed your renewal within the required timeframe. Your eligibility ended effective April 30, 2015.

On April 18, 2015, the Marketplace issued a disenrollment notice stating that your coverage through Healthfirst would end effective April 30, 2015.

On May 13, 2015, an application was filed, adding a member to your household, and on May 14, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan at full cost, and your children remained eligible or conditionally eligible for Medicaid.

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On October 16, 2015, a formal appeal was filed with the Marketplace's Account Review Unit based on the April 17, 2015 eligibility determination insofar as your Medicaid coverage was terminated as of April 30, 2015 because you failed to renew your application for health insurance.

On January 5, 2016, 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 for up to 15 days to provide you an opportunity to submit supporting evidence, including proof of your income for 2015.

On January 20, 2016, the Marketplace's Appeals Unit received two copies of your supporting evidence, which include a written personal statement, a statement of your income, your spouse's income, and household bank accounts. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you were not aware of the March 8, 2015 notice requesting that you renew your Marketplace account.
- 2) You testified that you did not receive the notice informing you that your Medicaid coverage was terminated because you were "medically incapacitated" from April 25, 2015 to May 10, 2015.
- 3) You testified that you are married and you reside with your spouse and two children. You further testified that you are currently pregnant and expecting one child.
- 4) You testified that you were told by Marketplace representatives that you did not need to include your spouse in your Marketplace account because he was not seeking health insurance through the Marketplace.
- 5) You testified that you attempted to update your account in May 2015, but were prevented from completing your renewal because you needed to get financial information from your spouse. You further testified that you were informed by a Marketplace representative that your spouse's income information was not required because he was not listed in your Marketplace account.

- 6) You testified that you earned approximately \$28,152.00 during the 2015 tax year, and your spouse earned approximately \$21,000.00 during the same year.
- 7) According to the evidence provided, you had a household income of \$54,361.02, which included \$25,339.00 from your earned income, \$20,936.00 from your spouse's earned income, \$5,145.97 as listed in a joint checking account held with your spouse, and \$2,940.05 as listed in a savings account for your child (Appellant's Exhibit 1, January 20, 2016).
- 8) You testified, and the record reflects, that you requested an appeal on, or around, October 16, 2015. You further confirmed that you did not make any previous attempts to request an appeal.
- 9) The record reflects that your account was modified on January 20, 2016 to include your spouse.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by the Marketplace (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

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)).

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)).

Family size means the number of persons counted as a member of an individual’s household. In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)). In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Legal Analysis

The only issue under review is whether your appeal of the Marketplace’s April 17, 2015 eligibility determination was timely.

On April 17, 2015 the Marketplace issued an eligibility determination notice stating that you were no longer eligible for Medicaid, effective April 30, 2015, because you did not respond to the renewal notice and did not complete your renewal within the required timeframe.

The record reflects, and you confirmed, that the first time you contacted the Marketplace to file a formal appeal your Medicaid eligibility termination due to a failure to timely renew your application was October 16, 2015. Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by the Marketplace.

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For an appeal to have been valid on the issue of your Medicaid eligibility termination, as stated in the April 17, 2015 notice, an appeal should have been filed by June 16, 2015. According to the credible evidence in the record, you did not contact the Marketplace until October 16, 2015 to file a formal appeal which is well beyond 60 days from the April 17, 2015 eligibility determination notice.

Therefore, there has been no valid appeal of the April 17, 2015 eligibility determination notice and your appeal on the issue of the termination of your Medicaid eligibility as stated in that notice is **DISMISSED**.

However, you testified that you are currently married, pregnant with one child, and reside with your spouse and two children.

For purposes of Medicaid eligibility, family size means the number of persons counted as members of an individual's household. In the case of a married couple living together, each spouse must be included in the household of the other spouse, regardless of whether they expect to file a joint tax return. Furthermore, the household size of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver.

The credible evidence of record reflects that your spouse was not listed in your Marketplace account, and your application was an inaccurate reflection of your household composition. However, the record reflects that your account was modified on January 20, 2016 to include your spouse. Since your application has since been amended, no further action will be directed by the Marketplace's Appeals Unit.

Decision

Your appeal of the April 17, 2015 eligibility determination notice is untimely and is dismissed.

Effective Date of this Decision: February 1, 2016

How this Decision Affects Your Eligibility

Your appeal request of the April 17, 2015 eligibility determination will not be addressed at this time.

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

Your appeal of the April 17, 2015 eligibility determination notice is untimely and is dismissed.

Your appeal request of the April 17, 2015 eligibility determination will not be addressed at this time.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

