



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

Notice of Decision

Decision Date: February 8, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005088

[REDACTED]

Dear [REDACTED],

On January 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 22, 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.

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).

This page intentionally left blank.



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

Decision

Decision Date: February 8, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005088



Issue

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

Did the Marketplace properly determine that you were not eligible for reimbursement of your Medicare Part B premiums?

Procedural History

On April 3, 2015, the Marketplace issued a notice of eligibility determination that stated you were eligible for Medicaid, effective April 1, 2015.

Also on April 3, 2015, the Marketplace issued a notice confirming your enrollment in a Medicaid Managed Care plan, effective May 1, 2015.

On August 9, 2015, the Marketplace issued a disenrollment notice stating that your Medicaid Managed Care plan enrollment was terminated, effective September 30, 2015, because you were no longer eligible to remain enrolled in that plan.

On September 22, 2015, the Marketplace issued a notice of eligibility determination confirming that you were not eligible to receive reimbursement of your Medicare Part B premiums. The notice further stated that you were not eligible because "a person must apply for benefits which can reduce or end the person's need for reimbursement of Medicare Part B premiums"; however, you elected to receive your health insurance benefit only, and not your Social Security retirement benefit.

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).

On November 5, 2015, the Marketplace issued a notice of eligibility redetermination stating that you were eligible for Medicaid, effective as of December 1, 2015. It further stated that you did not need to select a health plan at this time because “[p]ersons with Medicare cannot select a Medicaid Managed Care plan.”

On November 11, 2015, you spoke with the Marketplace’s Account Review Unit and appealed the Marketplace’s denial of your request reimbursement of your Medicare Part B premiums.

On January 15, 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 provide supporting evidence, including notices sent to you by the Social Security Administration.

On February 1, 2016, the Marketplace received copies of your Medicare insurance card and New York State Benefit Identification Card, as well as the notice of eligibility determination the Marketplace sent to you on November 5, 2015. You did not submit copies of any letters sent to you by the Social Security Administration.

The record was closed on February 1, 2016.

Findings of Fact

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

- 1) The record reflects that you have been enrolled in Medicaid fee-for-service coverage through the Marketplace, as of April 1, 2015.
- 2) The record reflects that you turned 65 years old on July 13, 2015. You testified that you have not received any notices from the Social Security Administration stating that you are eligible to begin receiving retirement benefits because you had not turned 66 years old. You further testified that you had not elected to postpone collection of your Social Security benefits.
- 3) You testified that you were enrolled in Medicare Part A, effective July 1, 2015, and Medicare Part B, effective August 1, 2015; this is corroborated by the Medicare insurance card you submitted.
- 4) You testified that you are unaware of any Medicare Part B premiums owed; however, if payments for this coverage were due, you request those payments be reimbursed by the Medicaid program.

- 5) You testified that you believe that your Medicare Part B coverage is still active.
- 6) The Marketplace determination issued on September 22, 2015 indicated that the reason your request for reimbursement of your Medicare Part B premiums was denied was because you elected to defer collection of your Social Security retirement benefits.

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

Applicable Law and Regulations

The state or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (42 USC § 1396a(a)(25)). Third parties include health insurers, self-insured plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (*id.*).

“The [Medicaid] program will pay on behalf of qualified Medicare beneficiaries ... the full amount of any deductible and coinsurance costs incurred under Part A or B of Title XVIII of the Social Security Act (Medicare)” (18 NYCRR § 360-7.7(a)).

“Payment of Medicare part B premiums will be made by the [Medicaid] program if the recipient is: enrolled in a voluntary insurance program under Medicare part B; receiving cash grants as an eligible recipient of public assistance; receiving chronic care in a medical institution; receiving care in a public home; or a qualified Medicare beneficiary... [or] a specified low income Medicare beneficiary” (18 NYCRR § 360-7.8(b)).

In order to qualify for benefits under the Medicaid program, such as payment of Medicare part B premiums, beneficiaries must pursue any potential income and resources that may be available, and “take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so” (42 CFR § 435.608(a); see also 18 NYCRR § 360-2.3(c)(1); GIS 13 MA/005 (March 2013)). Such potential income and resources include Social Security benefits (GIS 13 MA/005 (March 2013)).

An individual may be eligible for Social Security benefits as early as age 62 (42 USC § 402). The full retirement age for someone born in 1950 is 66; however, at age 65 you would be eligible to receive at least 93.3% of monthly benefit (42 USC § 416(l)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were not eligible for reimbursement by the Medicaid program for your Medicare Part B premiums.

On April 3, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid, effective April 1, 2015.

The record reflects that you turned 65 years old on July 13, 2015, and were enrolled in Medicare Part A, effective July 1, 2015, and Part B, effective August 1, 2015.

You testified that you have not received any notices from the Social Security Administration regarding your Social Security retirement payments or whether you elected to defer them, because you have not turned 66, which is your Social Security retirement age. No letters from the Social Security Administration have been submitted to the Marketplace.

In a September 22, 2015 notice, the Marketplace denied reimbursement of your Medicare Part B premiums on grounds that you elected to receive your Medicare benefits, but not your Social Security retirement benefit.

In order to qualify for reimbursement of Medicare Part B premiums, Medicaid recipients must apply for any potentially available income, including Social Security retirement benefits.

Although you testified that you had not reached retirement age, and it is true that your "full" retirement age is 66, you were eligible to apply for early retirement benefits as early as age 62.

Since you did you were eligible to receive Social Security retirement benefits in September 2014, but you elected not to pursue these benefits, the Marketplace properly determined that you did not qualify for reimbursement of your Medicare Part B premiums by the Medicaid program.

The Marketplace's September 22, 2015 eligibility determination was correct and is AFFIRMED.

Decision

The September 22, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 8, 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).

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are not eligible for reimbursement of your Medicare Part B premiums through the Marketplace.

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

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).

Summary

The September 22, 2015 eligibility determination notice is AFFIRMED.

This decision does not change your eligibility.

You are not eligible for reimbursement of your Medicare Part B premiums through the Marketplace.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

