



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

Notice of Decision

Decision Date: February 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005308

[REDACTED]

Dear [REDACTED],

On February 9, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 22, 2015 and November 23, 2015 eligibility determinations.

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).

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NY State of Health Number: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you and your spouse were eligible for Medicaid effective December 1, 2015?

Did the Marketplace properly determine that you and your spouse were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2016?

Procedural History

On November 19, 2015, a Marketplace representative updated the income information in your Marketplace application. That day, a preliminary eligibility determination was prepared stating that you and your spouse were eligible to enroll in Medicaid.

On November 20, 2015, several updated applications were submitted to the Marketplace on your behalf. That day, a preliminary eligibility determination was prepared based on the last application you submitted that day, stating that you and your spouse were no longer eligible for Medicaid; however, your Medicaid coverage would continue because certain individuals who are determined eligible for Medicaid remain eligible for 12 continuous months.

Also on November 20, 2015, you spoke to the Marketplace's Account Review Unit and appealed the preliminary eligibility determination insofar as it determined you and your spouse continuously eligible for Medicaid.

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On November 22, 2015 the Marketplace issued a notice of eligibility determination, based on the last application filed on November 20, 2015, stating that you and your spouse were no longer eligible for Medicaid but that your Medicaid coverage would continue until October 31, 2016 because individuals who have been determined eligible for Medicaid remain eligible for benefits for 12 continuous months. This eligibility was effective January 1, 2016.

On November 23, 2015 the Marketplace issued a notice of eligibility determination, based on the application filed on November 19, 2015, stating that you and your spouse were eligible for Medicaid, effective November 1, 2015.

On January 19, 2016, a piece of mail that the Marketplace sent you was returned as undeliverable.

On February 5, 2016, your Marketplace application was resubmitted to the Marketplace.

On February 6, 2016, the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were eligible for the Essential Plan, effective March 1, 2016.

Also on February 6, 2016, the Marketplace issued a disenrollment notice stating that your and your spouse's coverage through Medicaid would end effective February 29, 2016.

Also on February 6, 2016, the Marketplace issued an enrollment confirmation notice stating that you and your spouse were enrolled in an Essential Plan effective March 1, 2016.

On February 9, 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) In the application that was submitted on November 19, 2015, you attested to filing your tax return as married filing jointly with your spouse and claiming your adult son as a dependent.
- 2) In the application that was submitted on November 19, 2015, the only expected annual income listed was for your spouse in the amount of \$4,168.00.

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- 3) The application that was submitted on November 19, 2015 was submitted by a Marketplace representative.
- 4) You testified that in November you contacted the Marketplace to update your application for 2015 and when the representative completed the application she only entered in your husband's income and not yours.
- 5) You testified that the representative should have entered an income for you in the amount of \$30,000.00.
- 6) In the final application that was submitted on November 20, 2015, you attested to filing your tax return as married filing jointly with your spouse and claiming no dependents.
- 7) The final application that was submitted on November 20, 2015, listed an annual household income of \$37,000.00. This income consisted of \$32,000.00 that you expect to receive, and \$5,000.00 your spouse expects to receive.
- 8) The record reflects that on February 5, 2016 you contacted the Marketplace and you were informed that because your account had been marked as having an invalid address, your Medicaid coverage was going to be cancelled.
- 9) You testified that from December 2015 through February 2016 you used the Medicaid coverage you were enrolled in. You further testified that you do not want to be fraudulent in the use of your Medicaid coverage because you know you were not eligible for the coverage but for medical reasons you had to use it.

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

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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 \$20,090.00 for a three-person household and \$15,930.00 for a two 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)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, 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 first issue is whether the Marketplace properly determined that you and your spouse were eligible for Medicaid effective December 1, 2015.

In the application that was submitted on November 19, 2015, you attested to filing your tax return as married filing jointly with your spouse and claiming your adult son as a dependent. Therefore, you and your spouse were in a three person household. That same application listed an annual household income of \$4,168.00.

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 November 19, 2015 application, the relevant FPL was \$20,090.00 for a three-person household. Since \$4,168.00 is 20.75% of the 2015 FPL, you, and your spouse, would have been eligible for Medicaid on an expected annual income basis, using the information provided in your application.

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However, you testified and the record reflects that the income information that was entered into your application on November 19, 2015 was entered incorrectly by a Marketplace representative. You credibly testified that the Marketplace representative only entered your husband's income and failed to enter your expected income of about \$30,000.00.

On November 20, 2015 several applications were submitted to the Marketplace by you in attempt to remove you and your spouse from Medicaid coverage. In the final application that was submitted on November 20, 2015, you attested to filing your tax return as married filing jointly with your spouse and claiming no dependents. Therefore, you and your spouse were now in a two-person household. That final application also listed an annual household income of \$37,000.00, consisting of \$32,000.00 that you expect to receive, and \$5,000.00 your spouse expects to receive.

Based on the November 20, 2015 application with the corrected information, the relevant FPL was \$15,930.00 for a two -person household. Since \$37,000.00 is 232.27% of the 2015 FPL, you, and your spouse, should not have been eligible for Medicaid on an expected annual income basis.

Since the Marketplace representative entered in your income information incorrectly, and because you attempted to correct this information in a timely manner, the November 23, 2015 eligibility determination notice finding you and your spouse eligible for Medicaid was incorrect.

The second issue is whether you and your spouse's Medicaid coverage should continue until October 31, 2016.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months whether or not their income increases. This is referred to as "continuous coverage."

Since the November 23, 2015 eligibility determination was issued based on incorrect information that was entered into your application by a Marketplace representative, the continuous coverage policy should not have been applied to you. Therefore, the November 22, 2015 eligibility determination notice was also incorrect.

Generally, when the Appeals Unit finds eligibility determination notices to be incorrect, your case would be returned to the Marketplace for a redetermination of your eligibility.

However, on January 19, 2016, a piece of mail that the Marketplace sent you was returned as undeliverable. One of the exceptions to the 12-month Medicaid continuous coverage policy is if a person lacks state residence, or is unable to

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prove state residence during those 12 months, they become ineligible for continuous coverage.

The record reflects that on February 5, 2016 you contacted the Marketplace and you were informed that because your account had been marked as having an invalid address, your Medicaid coverage was going to be cancelled. That day, you updated your Marketplace account.

On February 6, 2016 the Marketplace issued a notice of eligibility redetermination stating that you and your spouse were eligible for the Essential Plan, effective March 1, 2016.

While it appears that your issue has since been resolved, you testified that from December 2015 through February 2016 you used the Medicaid coverage you were enrolled in, pending a determination on your appeal of the original Medicaid eligibility determination. You further testified that you do not want to be fraudulent in the use of your Medicaid coverage because you felt you were not eligible for the coverage, but for medical reasons you had to use it during the appeals process. While you remained enrolled in Medicaid, you were unable to enroll in an appropriate plan through the Marketplace.

Therefore, the Marketplace put you in a situation where you could either do without medical coverage or potentially be responsible for services you received during the time you were Medicaid eligible.

Your Medicaid coverage and your spouse's Medicaid coverage from December 1, 2015 through February 29, 2016 is to remain in effect and you are not responsible for any services you might have received during this coverage period.

However, the redetermination which found you eligible to enroll in the Essential Plan, effective March 1, 2016, remains in effect, as that is the coverage for which your family is now eligible.

Decision

The November 22, 2015 and November 23, 2015 eligibility determination notices are MODIFIED to state that you and your spouse are eligible for Medicaid effective only from December 1, 2015 through February 29, 2016.

Your and your spouse's Medicaid coverage effective December 1, 2015 through February 29, 2016 was proper and you are not responsible for any services you might have received during this coverage period.

However, the redetermination which found you eligible to enroll in the Essential Plan, effective March 1, 2016, remains in effect, as that is the coverage for which your family is now eligible.

Effective Date of this Decision: February 22, 2016

How this Decision Affects Your Eligibility

You and your spouse were incorrectly found eligible for Medicaid, however you are not responsible for any services you and your spouse have received during this coverage period.

Your and your spouse's eligibility for and enrollment in the Essential Plan is effective as of March 1, 2016.

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

Summary

The November 22, 2015 and November 23, 2015 eligibility determination notices are MODIFIED to state that you and your spouse are eligible for Medicaid effective December 1, 2015 through February 29, 2016.

You and your spouse's Medicaid coverage effective December 1, 2015 through February 29, 2016 was proper and you are not responsible for any services you might have received during this coverage period.

However, the redetermination which found you eligible to enroll in the Essential Plan, effective March 1, 2016, remains in effect, as that is the coverage for which your family is now eligible.

Your and your spouse's eligibility for and enrollment in the Essential Plan is effective as of March 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

