



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

Notice of Decision

Decision Date: February 17, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005312

[REDACTED]

Dear [REDACTED],

On February 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 17, 2015 eligibility redetermination and November 23, 2015 disenrollment 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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NY State of Health Number: [REDACTED]

Appeal Identification Number: AP000000005312

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Issues

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

Did the Marketplace properly determine that your health insurance coverage with New York State Catholic Health Plan, Inc. should be terminated effective November 30, 2015?

Procedural History

On May 29, 2015, an eligibility determination notice was issued stating in part that you were eligible for Medicaid because your household income of \$16,329.00 was at or below the allowable income limit. This eligibility was effective December 1, 2014.

On May 29, 2015, an enrollment notice was issued confirming in part that you had selected Fidelis Care as your Medicaid Managed Care (MMC) plan with an effective enrollment start date of July 1, 2015.

On September 16, 2015, the Marketplace issued a notice that it was time to renew your health insurance. 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 November 15, 2015 or you might lose the financial assistance you were currently receiving.

On November 17, 2015, the Marketplace issued a notice stating that you had not responded to the renewal notice and that you were therefore no longer eligible for financial assistance, effective November 30, 2015.

On November 23, 2015, the Marketplace issued a disenrollment notice stating that your coverage with your MMC plan would end effective November 30, 2015.

On November 21, 2015, you spoke to the Marketplace's Account Review Unit and appealed the disenrollment notice insofar as it terminated your coverage under your MMC plan on November 30, 2015.

On February 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 support the following findings of fact:

- 1) According to your Marketplace account and your testimony, you elected to receive email alerts from the Marketplace to inform you that important information was available for you to review in your Marketplace account Inbox.
- 2) According to your Marketplace account, you applied for health insurance through the Marketplace on December 20, 2014, and were later determined to have health insurance under Medicaid Fee-For-Services, effective December 1, 2014.
- 3) According to your Marketplace account and your testimony, you were enrolled in your MMC plan beginning July 1, 2015.
- 4) You testified that you thought your next renewal notice would be sent to you in June 2016 based upon your July 2015 MMC plan enrollment and, since you did not receive any email alerts, you did not know that you had to update your account any earlier.
- 3) You also testified that you did not receive a notice to update your account from the Marketplace by regular mail.
- 4) You testified that you first became aware you were disenrolled from your MMC plan on November 18, 2015 and that you contacted the Marketplace by telephone on November 19, 2015 to inform them that you had not received an email alert or a renewal notice in the mail.

- 5) You testified that you have not updated the information in your Marketplace account as you are waiting for the outcome of your appeal.
- 5) Your household income on your May 28, 2015 Marketplace application was listed as \$16,329.00. You testified that your 2015 income was actually \$15,865.49.
- 6) According to your Marketplace account, you expect to file your 2015 federal tax return as Head of Household with a Qualifying Individual and to claim your daughter as a dependent on that tax return. You testified that this information is correct.

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

Applicable Law and Regulations

Medicaid Continuous Coverage

Most adults determined eligible for Medicaid are guaranteed twelve 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 twelve-month period. This twelve-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)).

Medicaid Renewal

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)).

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

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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)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

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 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 within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, the Marketplace must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue is whether the Marketplace properly disenrolled you from your MMC plan with New York State Catholic Health Plan, Inc. effective November 30, 2015.

You were originally found eligible for Medicaid based on a household income of \$16,329.00 on May 29, 2015 after you uploaded your federal income tax returns for 2012, 2013, and 2014. This eligibility was made effective December 1, 2014, because that was the month in which you initially applied and were determined to be eligible for Medicaid.

Since you were found Medicaid eligible as of December 1, 2014, you were entitled to 12 months of continuous coverage including the coverage you had under your MMC plan. According to the credible evidence of record, your enrollment in the MMC plan you had selected was effective July 1, 2015. Therefore, your 12 months of continuous coverage under Medicaid and your MMC plan began on December 1, 2014 and was due to end November 30, 2015, which was the reason for the Marketplace issuing the September 16, 2015 renewal notice.

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Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every twelve months 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. The Marketplace's September 16, 2015 renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage for the upcoming policy period, and that you needed to supply additional information by November 15, 2015 or the financial assistance you were then getting might end.

Since the Marketplace had not received a timely response to this notice, you were terminated from your MMC plan effective November 30, 2015, at the end of the 12 month period of continuous Medicaid Coverage.

However, you credibly testified that you received no email alert that there was important information in your Marketplace account that you needed to review and no renewal notice by standard mail advising you of the need to update your account.

You testified that, on November 18, 2015, you spoke to the Marketplace and they confirmed that no email alert had been sent and no notice had been sent by standard mail telling you to update your Marketplace account so that your eligibility for financial assistance could be redetermined for the upcoming policy year.

You testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You were entitled to notice of the need to renew your application, and there is no evidence to show that you were sent and received an email which would have alerted you to the renewal having been uploaded to your account and there is no evidence to suggest that renewal notice was thereafter sent to you by standard mail, as is required. You also credibly testified that you did not receive the September 16, 2015 renewal notice asking you to update your Marketplace application by standard mail and, if you had received such notice, you would have done so immediately.

Therefore, we find that you did not receive proper notice from the Marketplace informing you that you needed to update your application for your eligibility for financial assistance to be redetermined. We further find that the Marketplace improperly disenrolled you from your MMC plan without proper notice such that the November 17, 2015 eligibility redetermination notice and November 23, 2015 disenrollment notice are RESCINDED.

On the date of your hearing, you testified that your household income was \$15,865.49 in 2015 and that you expect it to be comparable in 2016. You further testified that you expect to file your federal tax return for 2015 as Head of

Household with a Qualifying Individual and will claim your daughter on that tax return. Therefore, you are in a two-person tax household. Your Marketplace account reflects that you reside in Bronx County.

Therefore, your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance and insurance affordability programs using this information for an effective date of December 1, 2015, and to notify you accordingly.

If it is determined that you were Medicaid eligible as of December 1, 2015, the Marketplace is directed to facilitate your selection of an MMC Plan as of that date.

Decision

The November 17, 2015 eligibility redetermination notice and November 23, 2015 disenrollment notice are RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for financial assistance and insurance affordability programs for an effective date of December 1, 2015, using a two-person household for an individual residing in Bronx County and a 2015 income of \$15,865.49, and to notify you accordingly.

If it is determined that you were Medicaid eligible as of December 1, 2015, the Marketplace is directed to facilitate your selection of an MMC Plan as of that date.

Effective Date of this Decision: February 17, 2016

How this Decision Affects Your Eligibility

Your case is being returned to the Marketplace to redetermine your eligibility for financial assistance and insurance affordability programs effective December 1, 2015. The Marketplace will notify you once that redetermination has been made.

If you are redetermined to be Medicaid eligible, the Marketplace will facilitate your selection of an MMC plan as of that date.

If You Disagree with this Decision (Appeal Rights)

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 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

The November 17, 2015 eligibility redetermination notice and November 23, 2015 disenrollment notice are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to redetermine your eligibility for financial assistance and insurance affordability programs for an effective date of December 1, 2015, using a two-person household for an individual residing in Bronx County and a 2015 income of \$15,865.49, and to notify you accordingly.

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If it is determined that you were Medicaid eligible as of December 1, 2015, the Marketplace is directed to facilitate your selection of an MMC Plan as of that date.

Your case is being returned to the Marketplace to redetermine your eligibility for financial assistance and insurance affordability programs effective December 1, 2015. The Marketplace will notify you once that redetermination has been made.

If you are redetermined to be Medicaid eligible, the Marketplace will facilitate your selection of an MMC plan as of that date.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

