



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

Notice of Decision

Decision Date: July 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005747

[REDACTED]

Dear [REDACTED]

On June 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 25, 2015 disenrollment notice, December 4, 2015 and December 22, 2015 eligibility determination notices.

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 Account ID 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.

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Decision

Decision Date: July 27, 2016

NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that you were disenrolled from your Medicaid Managed Care plan, effective December 31, 2015?

Did NYSOH properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until January 31, 2016?

Did NYSOH properly determine that you were eligible to receive an advance premium tax credit of up to \$115.00 per month, effective February 1, 2016?

Did NYSOH properly determine that you were not eligible for cost-sharing reductions?

Did NYSOH properly determine that you were not eligible for Medicaid?

Procedural History

On January 13, 2015, NYSOH received two revised applications for health insurance.

On January 14, 2015, NYSOH issued a notice stating that you might be eligible for health insurance through NYSOH, but more information was needed to make

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a determination. It requested that you provide income documentation by January 31, 2015 to confirm the information you provided in your application was accurate.

On February 11, 2015, NYSOH received several updates to your application.

Also on February 11, 2015, NYSOH received four earnings statements issued to you by [REDACTED] between January 15, 2015 and February 5, 2015.

On February 12, 2015, NYSOH issued a notice stating that you might be eligible for health insurance through NYSOH, but more information was needed to make a determination. It requested that you provide income documentation by March 1, 2015 to confirm the information you provided in your application was accurate.

On February 14, 2015, NYSOH issued a notice acknowledging receipt of the documentation you submitted to resolve the inconsistency in your account, but stated that the documentation provided was insufficient. It requested that you provide additional documentation proving your income. The letter did not specify what was lacking in the documentation you had already submitted, nor did it provide the deadline by which such documentation was to be provided.

On February 25, 2015, NYSOH received a revised application.

On February 26, 2015, NYSOH issued an eligibility determination notice based on the information contained in the February 25, 2015 application. It stated that you were eligible for Medicaid, effective January 1, 2015. No appeal was filed with regard to this eligibility determination.

On February 27, 2015, NYSOH issued a notice of enrollment confirming your enrollment in Health Insurance Plan of Greater New York (Greater NY) as your Medicaid Managed Care (MMC) plan. The notice also stated that your insurance coverage through Medicaid would begin January 1, 2015, and your enrollment with Greater NY.

On November 18, 2015, NYSOH received two additional revisions to your application, about an hour apart. The first application listed expected annual income of \$45,000.00. NYSOH made a preliminary eligibility determination that although you were no longer eligible for Medicaid, your enrollment in Medicaid would continue until December 31, 2015, i.e., the end of a 12-month period

In the second application submitted on November 18, 2015, you requested your eligibility be determined without financial assistance.

On November 24, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the last application submitted on November 18, 2015. It stated that you were newly eligible to purchase a

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qualified health plan (QHP) through NYSOH at full cost, effective January 1, 2016, and directed you to select a plan.

On November 25, 2015, NYSOH issued an enrollment notice confirming that you had selected and enrolled in a platinum-level plan through Empire Blue Cross Blue Shield, effective January 1, 2016. The notice also stated that the monthly premium was \$750.76 per month.

Also on November 25, 2015, NYSOH issued a disenrollment notice confirming that your MMC coverage with Greater NY would end effective December 31, 2015 because you were no longer eligible to remain enrolled in that plan.

Also on November 25, 2015, NYSOH received a revised application, in which you once again requested financial assistance.

On December 4, 2015, NYSOH issued a notice based on the information contained in your application submitted on November 25, 2015. It stated that you were no longer eligible for Medicaid; however, your Medicaid coverage would continue until January 31, 2016. This eligibility determination was effective January 1, 2016.

Also on December 4, 2015, NYSOH issued a notice of enrollment confirming your enrollment in UnitedHealthcare of New York Inc. (UHC), as your new MMC plan. The notice also stated that your MMC plan coverage with UHC would begin January 1, 2016.

On December 17, 2015, NYSOH issued a cancellation notice confirming that you had requested to cancel your enrollment in the full-cost plan through Empire Blue Cross Blue Shield.

On December 21, 2015, NYSOH received another revised application.

On December 22, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the December 21, 2015 application. It stated that you were eligible for up to \$115.00 per month in advance payments of the premium tax credit (APTC), ineligible for cost-sharing reductions (CSR), and ineligible for Medicaid. This eligibility determination was effective February 1, 2016.

Also on December 22, 2015, NYSOH issued a cancellation notice stating that your MMC coverage with UHC would end effective January 1, 2016. This was because you were found no longer eligible for coverage under this MMC.

On December 23, 2015, you contacted NYSOH's Account Review Unit and requested an appeal that your MMC coverage had been terminated as of

December 31, 2015, and to appeal the December 22, 2015 eligibility determination notice.

On June 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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 were found eligible for Medicaid coverage, effective January 1, 2015, as reflected in the February 26, 2015 eligibility determination notice.
- 2) You enrolled in Greater NY as your Medicaid Managed Care (MMC) plan, effective April 1, 2016.
- 3) You testified that, with the assistance of your insurance broker, you inadvertently revised your application on November 18, 2015 to one not seeking financial assistance.
- 4) You selected and enrolled in a platinum-level plan, with a monthly premium of \$750.76 per month, effective January 1, 2016.
- 5) Your MMC coverage with Greater NY was terminated effective December 31, 2015.
- 6) You revised your account on November 25, 2015 in order to request financial assistance. Based on this application, NYSOH issued a notice on December 4, 2015 stating that you were no longer eligible for Medicaid; however, your coverage would continue until January 31, 2016.
- 7) You were initially able to reenroll in an MMC plan issued by UHC with coverage beginning January 1, 2016; however, this coverage was cancelled as of January 1, 2016, as reflected in the December 22, 2015 cancellation notice.
- 8) You testified that you expect to file your 2016 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 9) You are seeking insurance for yourself only.
- 10) You testified that immediately upon realizing that your MMC coverage had been terminated, you revised your application to again request

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financial assistance. In that application, submitted on December 21, 2015, you attested to an annual household income of \$33,280.00, which was based on an earning rate of \$16.00 per hour over a 40 hour work week. You testified that that figure was reasonably accurate.

- 11) Your application reflects that your monthly income for December 2015 was \$2,560.00.
- 12) Your application states that you will not be taking any deductions on your 2016 tax return.
- 13) Your application states that you live in Queens County.
- 14) You testified that you were seeking to reinstate your MMC plan coverage with UHC for the month of January 2016, and to appeal that you were found eligible for an APTC of \$115.00, effective February 1, 2016.

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

Applicable Law and Regulations

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

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The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for 2016 is set by federal law at 2.03% to 9.66% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

For annual household income in the range of at least 250% but less than 300% of the 2015 FPL, the expected contribution is between 8.18% and 9.66% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37, IRS Rev. Proc. 2014-62).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Medicaid

Medicaid can be provided through NYSOH 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services 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 \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size

(42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

Medicaid Continuous Coverage

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 NYSOH 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. This 12-month period begins on the effective date of the person's initial eligibility for such assistance, and begins again as of the date of any subsequent determination of eligibility (NY Social Services Law § 366(4)(c)).

An individual will remain eligible for Medicaid for a full 12-month period, with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY Social Services Law § 366(4)(c)).

Start Dates

For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your Medicaid Managed Care (MMC) plan coverage with Greater NY was terminated as of December 31, 2015.

Based on an application submitted on February 25, 2015, you were found eligible for Medicaid. The eligibility determination notice issued on February 26, 2015 stated that your Medicaid coverage would begin effective January 1, 2015. Since there was no timely objection to the start of your Medicaid coverage on January 1, 2016, it will not be reviewed by the NYSOH Appeals Unit.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

You testified that, with the assistance of your insurance broker, you inadvertently revised your application on November 18, 2015 from one seeking financial assistance, to an application not seeking financial assistance. As a result of this revision, you were found eligible to enroll in a qualified health plan (QHP) through NYSOH at full cost. You then enrolled in a platinum plan, with a monthly premium of \$750.76, and you were disenrolled from your MMC plan.

When you submitted an application declining financial assistance, NYSOH allowed you to do so, and to enroll in a full-cost QHP. When you enrolled in a QHP, NYSOH disenrolled you from your MMC plan coverage with Greater NY effective December 31, 2015.

You testified that upon realizing the error, you revised your account on November 25, 2015 to seek financial assistance. Based on that revised application, you were found no longer eligible for Medicaid; however, your Medicaid coverage would continue until January 31, 2016. This resulted in a one month gap in January 2016 where you were eligible for Medicaid, but were not enrolled in an MMC plan.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months from the initial eligibility date, whether or not their income increases. This is referred to as “continuous coverage.”

Since your Medicaid coverage began January 1, 2015, you were entitled to continue receiving such benefits 12 continuous months from that date, or until December 31, 2015. There was no later eligibility determination finding you eligible for Medicaid that would serve to extend the period of continuous coverage after the February 26, 2015 notice.

Because you changed your second application on November 28, 2015 to decline financial assistance, your MMC coverage was ended effective December 31, 2015. Coincidentally, this date coincided what would have been the end of your eligibility for Medicaid. When your general eligibility for Medicaid ends, so must your enrollment in the MMC plan.

Therefore, the November 25, 2015 disenrollment notice stating that your MMC coverage with Greater NY would end effective December 31, 2015 is **AFFIRMED**.

The second issue is whether NYSOH properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until January 31, 2016.

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As noted above, regardless of the original basis for the November 25, 2015 disenrollment notice, it correctly noted that your enrollment in the MMC plan should end December 31, 2015.

Therefore, the December 4, 2015 eligibility determination is MODIFIED to reflect that your enrollment in the MMC plan ended December 31, 2015, and not January 31, 2016.

The third issue under review is whether NYSOH properly determined that you were eligible to receive up to \$115.00 per month in advance payments of the premium tax credit (APTC), effective no earlier than February 1, 2016.

Since your Medicaid coverage, including your enrollment in an MMC plan, should have been terminated as of December 31, 2015, when you updated your account on November 25, 2016, your application should have been reviewed for your eligibility for financial assistance in the form of APTC and cost-sharing reductions (CSR), and you should have been found ineligible for Medicaid effective January 1, 2016.

Therefore, the December 22, 2015 eligibility determination must be MODIFIED to reflect your eligibility for APTC began January 1, 2016.

With regard to the level of APTC to which you were entitled, the application that was submitted on November 25, 2015 listed an annual household income of \$33,280.00 and the eligibility determination should have relied upon that information.

You are in a one-person household. You expect to file your 2016 income taxes as single and will claim no dependents on that tax return.

You reside in Queens County, where the second lowest cost silver plan available for an individual through NYSOH costs \$368.26 per month.

An annual income of \$33,280.00 is 282.75% of the 2015 FPL for a one-person household. At 282.75% of the FPL, the expected contribution to the cost of the health insurance premium is 9.15% of income, or \$253.76 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$368.26 per month) minus your expected contribution (\$253.76 per month), which equals \$114.50 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$115.00 per month in APTC.

The fourth issue is whether you were properly found ineligible for CSR.

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CSR is available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$33,280.00 is 282.75% of the applicable FPL, NYSOH correctly found you to be ineligible for CSR.

The fifth issue is whether NYSOH properly determined that you were ineligible for Medicaid.

Medicaid can be provided through NYSOH 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 \$11,770.00 for a one-person household. Since \$33,280.00 is 282.75% of the 2015 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

Your application reflects that you earn approximately \$2,560.00 per month from your employer, which is based on an earning rate of \$16.00 per hour over a 40 hour work week.

To be eligible for Medicaid as of your November 25, 2015 application, you would need to meet the non-financial criteria and have an income no greater than 138% of the 2015 FPL, or \$1,354.00 per month. Since there is nothing in the record that you earned less than this amount in November 2015, and that you earned approximately \$2,560.00 in during December 2015, you do not qualify for Medicaid on the basis of monthly income as of the date of your applications.

Insofar as the December 22, 2015 eligibility determination notice properly stated that, based on the information you provided, you were eligible for up to \$115.00 per month in APTC, ineligible for cost-sharing reductions, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The November 25, 2015 disenrollment notice is AFFIRMED.

The December 4, 2015 eligibility determination notice is RESCINDED.

The December 22, 2015, NYSOH issued an eligibility redetermination notice is MODIFIED solely to reflect your eligibility for APTC is effective January 1, 2016.

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Your case is RETURNED to NYSOH backdate the start of your QHP plan coverage and eligibility for APTC from February 1, 2016 to January 1, 2016.

Effective Date of this Decision: July 27, 2016

How this Decision Affects Your Eligibility

Your MMC plan coverage with Greater NY ended December 31, 2015.

Your enrollment in your QHP and eligibility for an APTC of up to \$115.00 per month begins as of January 1, 2016.

You are not eligible for either CSR or Medicaid, effective January 1, 2016.

Your case is being returned to NYSOH to assist you in correcting your enrollment.

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 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 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 25, 2015 disenrollment notice is AFFIRMED.

The December 4, 2015 eligibility determination notice is RESCINDED.

The December 22, 2015, NYSOH issued an eligibility redetermination notice is MODIFIED solely to reflect your eligibility for APTC is effective January 1, 2016.

Your case is RETURNED to NYSOH backdate the start of your QHP plan coverage and eligibility for APTC from February 1, 2016 to January 1, 2016.

Your MMC plan coverage with Greater NY ended December 31, 2015.

Your enrollment in your QHP and eligibility for an APTC of up to \$115.00 per month begins as of January 1, 2016.

You are not eligible for either CSR or Medicaid, effective January 1, 2016.

Your case is being returned to NYSOH to assist you in correcting your enrollment.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

