



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

Notice of Decision

Decision Date: May 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005766

[REDACTED]

Dear [REDACTED],

On March 25, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's (NYSOH) December 21, 2015 eligibility determination notice and NYSOH's failure to issue a timely eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

Legal Authority

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

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Decision

Decision Date: May 24, 2016

NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

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

Did NYSOH properly determine that you are not eligible for financial assistance or enroll in a qualified health plan at full cost through the Marketplace as of December 31, 2015?

Did NYSOH provide you with timely notice of an eligibility determination regarding your application for financial assistance?

Procedural History

On January 17, 2015, NYSOH issued an eligibility determination notice stating that you are eligible for Medicaid because your household income is at or below the allowable income limit. This eligibility was effective January 1, 2015.

On January 19, 2015, NYSOH issued an enrollment notice confirming that you had selected New York State Catholic Health Plan, Inc. as your Medicaid Managed Care Plan, and your enrollment with New York Catholic Health Plan, Inc. will begin January 1, 2015.

On October 23, 2015, NYSOH issued a notice that it was time to renew your health insurance. The notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help with paying for your health coverage, and that you needed to update your account by December 15, 2015, or you might lose the financial assistance you were currently receiving.

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On December 21, 2015, NYSOH issued an eligibility determination notice that you are not eligible for financial assistance or cannot enroll in a qualified health plan through NYSOH because you did not complete your renewal within the required timeframe. The notice states that your eligibility will end effective December 31, 2015.

On December 22, 2015, your NYSOH account was updated.

On December 22, 2015, eight-pages of documents were uploaded to your NYSOH account [REDACTED]

On December 22, NYSOH issued a disenrollment notice stating that your New York Catholic Health Plan, Inc. coverage would end effective December 31, 2015.

On December 23, 2015, NYSOH issued a notice stating that you may be eligible for health insurance through NY State of Health but MORE information is needed to make a determination. The notice directed you to submit income documentation by January 7, 2016 to confirm that the information you provided in your application is accurate.

On December 24, 2015, eight-pages of documents were uploaded to your NYSOH account [REDACTED]

On December 24, 2015, you spoke to the Marketplace's Account Review Unit requested an appeal insofar as your enrollment in a Medicaid Managed Care plan.

On March 25, 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. You are applying for health insurance through NYSOH for yourself.
2. According to your NYSOH account, you were determined eligible to receive Medicaid, effective January 1, 2015.
3. Your NYSOH and testimony, you elected to receive notices from NYSOH via regular mail.
4. You testified that you did not receive any notices in the mail regarding the need to update your NYSOH account to renew your coverage for 2016.

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5. No notices sent to the address listed on your NYSOH account have been returned as undeliverable.
6. You testified that you contacted the NYSOH three or four times between December 14, 2015 and December 18, 2015 to renew your coverage for 2016. However, an automatic message stated to hold and was disconnected after approximately an hour of waiting.
7. According to your NYSOH account, your account was first updated on December 22, 2015.
8. You testified that you plan on filing your 2015 and 2016 U.S. Individual Income Tax Returns with the filing status of married filing separately and will not claim any dependents on either return.
9. You and your wife separated in December 2014. She maintains her own residence and you did not reside with her in 2015 ([REDACTED]).
10. You testified you had two sources of income in 2015: [REDACTED]
11. According to your 2014 Form 1040 Schedule C, you received \$10,756.00 in net profit in 2014 ([REDACTED]).
12. According to your NYSOH account, you uploaded your [REDACTED] commission statements for the period of September 25, 2015 through December 31, 2015. You were issued:
[REDACTED]
13. You do not receive commission statements every week and do not receive a statement for a week in which the commission amount is below \$50.00 [REDACTED]

14. You testified you were only issued two commission statements from [REDACTED]. You were issued [REDACTED] and [REDACTED].

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

Applicable Law and Regulations

Medicaid Renewal:

The NYSOH 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 NYSOH 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 NYSOH 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 NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

Verification Process

For all individuals whose income is needed to calculate the household’s eligibility, the NYSOH must request data that will allow the Marketplace to verify the household’s income (45 CFR § 155.320(c)(1)(i)).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

Timely Medicaid Notice

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person’s eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 FR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)).

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However, if the applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Medicaid Eligibility- Adult

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)), 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 \$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 Managed Care Start Date

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)).

The enrollment period was further extended to December 19, 2015 for individuals to have coverage effective January 1, 2016 (Press Release: NY State of Health Extends Enrollment Deadline for January 1

Coverage: https://www.health.ny.gov/press/releases/2015/2015-12-15_enrollment_deadline_extension.htm

Legal Analysis

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The first issue is whether NYSOH properly determined that you were not eligible for financial assistance or enroll in a qualified health plan at full cost through the Marketplace as of December 31, 2015.

You were found eligible for Medicaid in 2015, effective January 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every twelve months 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 October 23, 2015, renewal notice stated that there was not enough information to determine whether you were eligible for financial assistance for health insurance coverage, and that you needed to supply additional information by December 15, 2015, or your financial assistance might end.

You testified that you did not receive the notice informing you that your application needed to be renewed.

The record indicates that the relevant notices were issued to the address you have listed on your NYSOH account, and that there is no indication that any of the notices were returned to the Marketplace as undeliverable.

The record reflects you contacted NYSOH and updated the information in your account on December 22, 2015.

You testified that you attempted to contact NYSOH multiple times on or before December 18, 2015 to renew your coverage for 2016. However, you were placed on hold and disconnected after approximately an hour of waiting.

This does not establish a sufficient basis to establish that you contacted the NYSOH in a timely manner to renew your coverage for 2016.

Because there was no timely response to the October 23, 2015 renewal notice, NYSOH properly determined that your financial assistance should end December 31, 2015.

Therefore, the December 21, 2015, eligibility determination notice is **AFFIRMED**.

The second issue is whether the NYSOH failed to provide you timely notice of your eligibility determination for financial assistance.

On December 22, 2015 your account was updated and an application for financial assistance for the 2016 coverage year was submitted.

On the same day the NYSOH rendered a preliminary eligibility determination that the information you provided does not match what NYSOH obtained from State and Federal data sources. In order for your eligibility to be determined, you must submit documents to confirm that the information you provided in your application is accurate.

On December 23, 2015, NYSOH issued a notice asking you to provide more information in order to make a determination on your eligibility for financial assistance for your health coverage. You were directed to provide income documentation confirming your income by January 7, 2016. The "Documentation List" on these notice includes records of earnings and expenses for the last 3 months.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow it to verify the household's income.

The record supports that you uploaded employment and income documentation to the Marketplace on December 22, 2015 and December 24, 2015.

The record reflects that you uploaded your [REDACTED] commission statements for the period of [REDACTED]. The statements show that you were issued: [REDACTED];

[REDACTED] Furthermore, you explained that you do not receive commission statements every week and do not receive a statement for a week in which the commission amount is below \$50.00 [REDACTED]

The documentation uploaded to your account contained sufficient information for the Marketplace to render an eligibility determination based on the documents provided as of December 24, 2015.

Furthermore, the record reflects that the NYSOH has not verified or acknowledged the receipt of the income documentation that was uploaded to your account in December 2015. Therefore, we must assume that this is the information would have been used had the NYSOH properly verified the documentation that was submitted.

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.

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Financial eligibility for Medicaid for applicants is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,354.00 per month. Based on the documentation submitted, which was corroborated by your testimony, you received \$964.35 in income in December 2015.

Therefore, your case is RETURNED to the NYSOH to effectuate your Medicaid Fee-For-Service (FFS), effective January 1, 2016.

The record reflects that you are seeking to be enrolled in a Medicaid Managed Care (MMC) plan, effective January 1, 2016.

Medicaid Managed Care 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. However, the NYSOH extended the deadline to enroll in health coverage that would effectuate January 1, 2016, to December 19, 2015.

Your application for financial assistance was completed as of December 24, 2015, so it must take effect on the first day of the second following month; that is on February 1, 2016.

Therefore your case is RETURNED to the NYSOH to effectuate your enrollment in a Medicaid Managed Care plan with a plan enrollment start date of February 1, 2016.

Decision

The December 21, 2015, eligibility determination notice is AFFIRMED.

The NYSOH failed to provide you timely notice of an eligibility determination regarding your application for health insurance coverage.

Your case is RETURNED to NYSOH to effectuate your Medicaid Fee-For-Service, effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate your enrollment in a Medicaid Managed Care plan with a plan enrollment start date of February 1, 2016.

Effective Date of this Decision: May 24, 2016

How this Decision Affects Your Eligibility

NYSOH properly disenrolled you from health insurance coverage effective December 31, 2015.

You are eligible for Medicaid FFS, effective January 1, 2016.

You are eligible to be enrolled in a Medicaid Manage Care plan with a plan enrollment start date of February 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 December 21, 2015, eligibility determination notice is AFFIRMED.

The NYSOH failed to provide you timely notice of an eligibility determination regarding your application for health insurance coverage.

Your case is RETURNED to NYSOH to effectuate your Medicaid Fee-For-Service, effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate your enrollment in a Medicaid Managed Care plan with a plan enrollment start date of February 1, 2016.

You are eligible for Medicaid FFS, effective January 1, 2016.

You are eligible to be enrolled in a Medicaid Manage Care plan with a plan enrollment start date of February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

