



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

### Notice of Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005856

[REDACTED]

Dear [REDACTED],

On April 7, 2016, you and your authorized representative, [REDACTED], appeared by telephone at a hearing on your appeal of NY State of Health's (NYSOH) December 31, 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).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 4, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005856

[REDACTED]

## Issue

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

Did the Marketplace properly discontinue your Fee-For-Service Medicaid coverage through NYSOH as of December 31, 2015?

## Procedural History

On December 5, 2014, the NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective January 1, 2015.

On December 11, 2014, the NYSOH issued an enrollment notice confirming that your enrollment with Excellus Health Plan, Inc. will begin January 1, 2015.

On August 9, 2015, the NYSOH issued a disenrollment notice that your Excellus Health Plan, Inc. coverage will be terminated September 30, 2015.

On September 23, 2015, the NYSOH issued a notice stating that you are eligible to receive reimbursement of your Medicare Part B premiums from New York State of Health effective October 1, 2015.

On October 24, 2015, the NYSOH 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 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, the NYSOH issued an eligibility determination notice that you are not eligible for financial assistance or cannot enroll in a qualified health plan at full cost through NY State of Health because you did not respond to the renewal notice with the required timeframe. The notice stated that your eligibility will end effective December 31, 2015.

On December 22, 2015, the NYSOH issued a disenrollment notice that your Medicaid Fee-For-Service coverage would be discontinued as of December 31, 2015.

On December 30, 2015, your Marketplace account was updated. The NYSOH rendered a preliminary eligibility determination that you were not eligible to purchase health coverage because you are "Receiving Medicare Public MEC."

Also on December 30, 2015, you spoke to the NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your ineligibility for Medicaid.

On December 31, 2015, the Marketplace issued an eligibility determination notice stating that you are not eligible for Medicaid because based on information from federal and state data sources, you were already enrolled in or eligible for Medicare.

On April 7, 2016, you and your authorized representative, [REDACTED], had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and the record was left open until April 11, 2016 to allow you submit additional documentation.

On April 11, 2016, you faxed twelve-pages of documents to the NYSOH Appeals Unit. That fax has been marked as "Appellant Exhibit A" and made part of the record. The record is now complete and closed.

## **Findings of Fact**

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

- 1) According to your Marketplace account, you expect to file a 2016 federal income tax return, with the tax status of single, and will not claim any dependents on that return.
- 2) According to your Marketplace account, you do not have any dependents residing in your household.
- 3) According to your Marketplace account, you are seeking insurance for yourself.

- 4) You testified that you are enrolled in Medicare Parts A and B, and your coverage was effective September 1, 2015.
- 5) You testified that you have been receiving Social Security Disability Income since 2013.
- 6) You testified that you are currently receiving approximately \$2,105.00, before deductions, in Social Security Disability Income per month.
- 7) On September 23, 2015, the NYSOH issued an eligibility determination notice that you are eligible to receive reimbursement of your Medicare Part B premiums from New York State of Health effective October 1, 2015.
- 8) You testified that you are seeking to continue your Medicaid coverage and the reimbursement of your Medicare Part B premiums.
- 9) According to your Marketplace, you live in Monroe County, New York.

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

## **Applicable Law and Regulations**

### Medicaid

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant is eligible for MAGI-based Medicaid through the Marketplace is to determine if he or she meets certain nonfinancial criteria. In general, to qualify for MAGI-based Medicaid through the Marketplace, you must either be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B
- A pregnant woman or infant
- A child aged 1-18
- A parent or caretaker relative

If you fall into one of these categories, the Marketplace must determine your eligibility for Medicaid using modified adjusted gross income (MAGI) rules (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories they may be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social

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Services or the Human Resources Administration (N.Y. Soc. Serv. Law § 366(1)(c)).

The Marketplace is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

## **Legal Analysis**

The issue under review is whether the Marketplace properly discontinued your Fee-For-Service Medicaid coverage through NYSOH effective December 31, 2015.

Medicaid through the Marketplace (called MAGI-based Medicaid) is available to individuals who are between the ages of 19 and 64, who are not eligible for Medicare Parts A or B; pregnant women or infants; children between the ages of 1 and 18; and parent or caretaker relatives.

According to your testimony and the information in your Marketplace application, you have no dependents and, therefore, are not a parent or a caretaker relative of a dependent child.

The record reflects that, at the time the NYSOH issued the December 31, 2015, eligibility determination you were enrolled in Medicare Parts A and B.

Since you were currently receiving Medicare, and not a parent or caretaker relative, the Marketplace properly determined that you are not eligible for Medicaid through the Marketplace.

However, individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, over the age of 65 or have become certified disabled may qualify for Medicaid under non-MAGI standards. The Marketplace is required to refer these individuals to their Local Department of Social Services (LDSS) for redetermination of their Medicaid eligibility.

Once a case is referred, the Marketplace and the LDSS must ensure that an individual's Medicaid is maintained throughout the redetermination process to prevent any gaps in coverage. This includes maintaining an individual's coverage through their Medicaid Managed Care plan or their receipt of Medicaid Premium Assistance payments.

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Since the record reflects that the Marketplace failed to refer your case to your LDSS, the December 31, 2015 eligibility determination notice terminating your Medicaid effective December 31, 2015 is RESCINDED.

Your case is RETURNED to the Marketplace to refer your case to Monroe County LDSS, if they have not done so. The Marketplace is directed to reinstate your Medicaid coverage and Medicaid Premium Assistance payments as of January 1, 2016, if it has not already done so through your Aid to Continue request. The Marketplace is further directed to continue your coverage until Monroe County LDSS can issue a redetermination of your eligibility for Medicaid on a non-MAGI basis.

## **Decision**

The December 31, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to refer your case to Monroe County LDSS.

The Marketplace is directed to reinstate your Fee-For-Service Medicaid coverage and Medicaid Premium Assistance as of January 1, 2016, if it has not already done so through your Aid to Continue request, until Monroe County LDSS can issue a redetermination of your eligibility for Medicaid on a non-MAGI basis.

**Effective Date of this Decision:** May 4, 2016

## **How this Decision Affects Your Eligibility**

Your case is being referred to Monroe County LDSS for consideration of your eligibility for non-MAGI-based Medicaid.

Your Fee-For-Service Medicaid and Medicaid Premium Assistance coverage is reinstated as of January 1, 2016 and will continue until a redetermination of your eligibility by your LDSS can be made.

## **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.

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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 December 31, 2015 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to refer your case to Monroe County LDSS.

The Marketplace is directed to reinstate your Fee-For-Service Medicaid coverage and Medicaid Premium Assistance as of January 1, 2016, if it has not already done so through your Aid to Continue request, until Monroe County LDSS can issue a redetermination of your eligibility for Medicaid on a non-MAGI basis.

Your case is being referred to Monroe County LDSS for consideration of your eligibility for non-MAGI-based Medicaid.

Your Fee-For-Service Medicaid and Medicaid Premium Assistance coverage is reinstated as of January 1, 2016 and will continue until a redetermination of your eligibility by your LDSS can be made.

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## **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]

[REDACTED]