



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

## Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: APM0004166

[REDACTED]

Dear [REDACTED],

On October 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 12, 2015 eligibility determination and your request for retroactive Medicaid for your spouse.

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 federal regulation 45 CFR § 155.545(b).

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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 March 1, 2015?

Did the Marketplace properly determine whether or not your spouse was eligible for retroactive Medicaid for three months prior to March 1, 2015?

## Procedural History

On March 12, 2015, the Marketplace issued a notice of eligibility determination that you and your spouse were eligible for Medicaid, effective March 1, 2015, because your household income of \$0.00 was at or below the allowable income limit for that program.

That same day, the Marketplace issued an enrollment notice confirming that you and your spouse selected UnitedHealthcare of New York, Inc. as your Medicaid Managed Care (MMC) plan. That notice further stated that you and your spouse's health insurance coverage with Medicaid Fee-For-Service would begin March 1, 2015 and your enrollments in the MMC plan would begin April 1, 2015.

On April 2, 2015, the Marketplace issued a notice of eligibility redetermination that you remain eligible for Medicaid, effective April 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your enrollment in the MMC plan you had previously selected, effective April 1, 2015.

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Also that same day, the Marketplace issued a disenrollment notice that your spouse's coverage in the MMC plan she was enrolled in would end effective April 30, 2015.

On May 29, 2015, you spoke to the Marketplace's Customer Service Unit and requested that your spouse's eligibility for retroactive Medicaid for February 2015 be determined.

On August 3, 2015, you spoke with a representative from the Marketplace's Accounts Review Unit and appealed the Marketplace's inaction regarding your May 29, 2015 request that your spouse's eligibility for retroactive Medicaid in February 2015 be determined.

On August 4, 2015, the Marketplace issued a letter acknowledging your request for an appeal regarding "[c]onsumer wants to have retro [M]edicaid for the month of February for his wife [ ] who is deceased. Consumer also states he never received any information regarding how to update account when someone dies and how to go about it when they have existing medical bills."

On October 26, 2015, 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 testified that you originally applied for health insurance through the Marketplace on March 11, 2015, because your employer-sponsored health insurance had ended on January 31, 2015 since you were unable to return to work.
- 2) According to your March 11, 2015 application, you did not request retroactive Medicaid coverage for your spouse to help with paying medical bills from the three previous months.
- 3) You testified that, at the time of your application, you believed your employer-sponsored health insurance was active for January and February 2015.
- 4) You testified that you had received and continue to receive weekly workers' compensation benefits and neither you nor your spouse had any other sources of income at the time of your application. You testified that your household income of \$0.00, as reported on your application, was correct.

- 5) You testified that you received weekly workers' compensation benefits in January 2015 and February 2015, and neither you nor your spouse had any other sources of income those two months.
- 6) According to your Marketplace account, you expected to file your 2015 federal income tax return as married filing jointly with your spouse and did not expect to claim any dependents.
- 7) At the time of your initial application, your spouse was 63 years old.
- 8) You testified that your spouse became ill and was hospitalized on or about January 29, 2015 and was discharged several days later, on or about February 3, 2015.
- 9) You testified and provided a June 28, 2015 written statement that this hospital stay was initially covered by your employer-sponsored health insurance, then believed to be in place, and the hospital and medical bills related to this stay were paid by that health insurance (Appellant's Exhibit A).
- 10) You testified and provided a June 28, 2015 written statement that your spouse was re-admitted to the hospital on February 4, 2015 through February 8, 2015, and that this second hospital stay and related medical bills were not covered by your employer-sponsored health insurance (Appellant's Exhibit A).
- 11) You testified that you contacted the Marketplace on April 1, 2015, to report your spouse's death. According to your Marketplace account, your spouse was removed as a household member and her account was closed that day; your account and application were updated; and your eligibility was redetermined. These updates to your account triggered the three April 2, 2015 notices being issued as referenced in the Procedural History above.
- 12) According to the Appeal Summary, dated October 7, 2015, which is part of the Evidence Packet, on May 29, 2015, "[a]n incident was filed requesting retroactive Medicaid coverage for member [your spouse's name]. Closed on 07/20/2015 as the member's Medicaid account had been closed" (NYSOH Exhibit 1). There is no corresponding notice in your Marketplace account to indicate the outcome of your request for retroactive Medicaid for your spouse.
- 13) According to that same Appeal Summary, on August 7, 2015, "[t]he Appellant, [your name] is requesting appeal to have retro Medicaid for his deceased wife for the month of February 2015. On 03/[11]/2015, consumer and spouse were deemed eligible for Medicaid effective 03/01/ 2015. On 04/01/2015, consumer called to report death of spouse. On 05/29/2015 consumer called to request retro Medicaid for the month of February" (NYSOH Exhibit 1). There is no corresponding notice in your Marketplace account to indicate the outcome of your request.

- 14) You testified at the time of hearing that your employer-sponsored health insurance retracted payment of bills related to your spouse's first hospital stay and declined benefits for her second hospital stay, so you need your spouse's eligibility for retroactive Medicaid reviewed for both January 2015 and February 2015.

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

## **Applicable Law and Regulations**

### 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)). 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

Medicaid can be provided through the Marketplace 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 that is at or below 138% of the federal poverty level for the applicable family size (42 CFR §§ 435.119(b), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

A retroactive authorization will be issued for medical expenses incurred during the three months prior to the month of application for Medicaid, provided the applicant was eligible in the month in which the medical care and services were received (18 NYCRR 360-2.4(c), 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

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## Legal Analysis

The issue under review is whether the Marketplace failed to provide you timely notice of your spouse's eligibility for retroactive Medicaid.

You applied for health insurance through the Marketplace on March 11, 2015. This application did not indicate that you were requesting retroactive Medicaid coverage for your spouse for the three months prior to your application. However, the record reflects that you made this request on May 29, 2015, which was not acted upon by the Marketplace. Instead, your May 29, 2015 request was closed on July 20, 2015 because your spouse's Medicaid account had been closed (NYSOH Exhibit 1).

According to the Appeal Summary, you renewed your request on August 7, 2015 (NYSOH Exhibit 1).

The Marketplace must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of their completed application. To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of the completed application to the date the Marketplace notifies the applicant of its decision.

The record reflects that the Marketplace did not attempt to make eligibility determinations regarding your May 29, 2015 request for retroactive Medicaid for your spouse because her Medicaid account was closed and could not be updated. Therefore, the Marketplace did not issue an eligibility redetermination.

Notwithstanding, the Marketplace was required to issue an eligibility redetermination regarding your request for retroactive Medicaid within 45 days. Forty-five days from May 29, 2015, was July 13, 2015. Forty-five days from August 7, 2015, the date you renewed your request, was September 21, 2015. As of the date of your hearing on October 26, 2015, no further action on your request had been taken.

Since the record reflects that the Marketplace had not issued an eligibility determination regarding your application for retroactive Medicaid as of the date of your scheduled hearing on October 26, 2015, the Marketplace failed to issue an eligibility determination within 45 days from the date your initial and subsequent requests. As such, you were not provided timely notice.

Furthermore, since there is no indication in the record that the Marketplace has made a determination on your request for retroactive Medicaid coverage for your spouse, the Appeals Unit cannot reach this issue.

Retroactive Medicaid coverage can be authorized for medical expenses incurred during the three months prior to the month of application for Medicaid, provided the applicant was eligible in the month in which the medical care and services were received. Your

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request for retroactive Medicaid was amended at the hearing to include medical expenses incurred by your spouse in January 2015 and February 2015.

Your case is RETURNED to the Marketplace to consider your request for retroactive Medicaid coverage for your spouse during January 2015 and February 2015. Your application for retroactive Medicaid will be based on a two-person household, with monthly household income of \$0.00 for both January 2015 and February 2015, with regard to medical bills incurred by your spouse during those two months.

## **Decision**

The Marketplace failed to provide you timely notice of an eligibility determination regarding your application for retroactive Medicaid coverage for your spouse.

Your case is RETURNED to the Marketplace to consider your request for retroactive Medicaid coverage for your spouse during January 2015 and February 2016. Your application for retroactive Medicaid will be based on a two-person household; and a monthly household income of \$0.00 for both January 2015 and February 2015, with regard to medical bills incurred by your spouse during those two months.

**Effective Date of this Decision:** November 25, 2015

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

This decision does not change your spouse's eligibility.

The Marketplace will decide if your spouse was entitled to retroactive Medicaid coverage for the months of January 2015 and February 2015.

## **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

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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 Marketplace failed to provide you timely notice of an eligibility determination regarding your application for retroactive Medicaid coverage for your spouse.

Your case is RETURNED to the Marketplace to consider your request for retroactive Medicaid coverage for your spouse during January 2015 and February 2016. Your application for retroactive Medicaid will be based on a two-person household; and a monthly household income of \$0.00 for both January 2015 and February 2015, with regard to medical bills incurred by your spouse during those two months.

This decision does not change your spouse's eligibility.

The Marketplace will decide if your spouse was entitled to retroactive Medicaid coverage for the months of January 2015 and February 2015.

## **Legal Authority**

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

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

