



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

Notice of Decision

Decision Date: February 24, 2016

NY State of Health Account ID:
Appeal Identification Number: AP000000004418

M

Dear Mr.

On February 2, 2016 your authorized representative appeared your behalf by telephone at a hearing on your appeal of NY State of Health Marketplace's July 13, 2015 eligibility determination 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 1-855-355-5777

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) § 155.645.

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: 1-800-862-1220) (TTY - Spanish: 1-877-862-4888).



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Appeal Identification Number: AP000000004418

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Issue

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

Did the Marketplace properly determine that you were not eligible to receive Medicaid through the Marketplace as of July 31, 2015?

Procedural History

On April 23, 2015 the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid, effective April 1, 2015.

On July 10, 2015 the Marketplace issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage will be discontinued as of July 31, 2015 because you were no longer eligible to enroll in insurance through the Marketplace.

On July 13, 2015 the Marketplace issued an eligibility determination notice stating that you were not eligible for Medicaid because, based on information from federal and state data sources, you were already enrolled in or eligible for a public insurance program such as Medicare. Your eligibility would end effective July 31, 2015.

On August 21, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal of that eligibility determination insofar as you were found no longer eligible for Medicaid.

On November 18, 2015 you were scheduled to appear for a telephone hearing.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-9777 (TTY - English: 1-800-682-1220) (TTY - Spanish: 1-877-662-4866).

On November 25, 2015 the Appeals Unit issued a Notice of Dismissal - Failure to Appear because a Hearing Officer was unable to reach you or your authorized representative for your November 18, 2015 hearing.

On December 3, 2015 the Appeals Unit received a request to vacate the November 25, 2015 dismissal. The dismissal was vacated and your hearing was rescheduled.

On February 2, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your authorized representative Nora Gonzalez appeared on your behalf. The record was developed during the hearing and remained open to allow your authorized representative time to fax a letter explaining her position on the issue. Shortly after the hearing, the Appeals Unit received a fax containing the documentation. The letter was marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) Your authorized representative testified that you are eligible for and enrolled in Medicare Parts A and B.
- 2) Your Marketplace application indicates that your Medicare coverage has been active since December 1, 1989.
- 3) Your authorized representative testified that you do not have any dependents.
- 4) The record reflects that prior to being found ineligible for Medicaid through the Marketplace, you were receiving Medicaid Premium Assistance payments to assist you in paying for your Medicare Part B premium.
- 5) The record reflects that you requested and were granted Aid to Continue. You were reinstated into your Medicaid coverage as of August 1, 2015, pending the outcome of your appeal.
- 6) Your authorized representative testified that you attempted to apply for Medicaid through your Local Department of Social Services (LDSS) as a certified disabled person; however, because you had been granted Aid to Continue through the Marketplace, LDSS found you ineligible for Medicaid because you already had coverage through the Marketplace.

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7) Your application states that you live in Suffolk County.

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)).

In general, to qualify for MAGI-based Medicaid through the Marketplace, you must also 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, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

In the case of an individual who was enrolled in Medicaid through the Marketplace, but who is determined to be no longer eligible for MAGI-based Medicaid, the Marketplace must generally make such a referral for an individual who is not eligible for MAGI-based Medicaid through the Marketplace if he or she is in receipt of Medicare, is disabled, or is over the age of 65, but is not a parent/caretaker relative. During the referral process, an individual's Medicaid eligibility through the Marketplace, 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 (14 OHIP/LCM-2 effective as of December 1, 2014; GIS 16 MA/04 effective as of January 1, 2016; see generally 42 CFR § 435.1200, 42 CFR § 435.930).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-6777 (TTY - English; 1-800-662-1220) (TTY - Spanish; 1-877-662-4886).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were not eligible to receive Medicaid through the Marketplace.

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

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

The record reflects that, at the time the Marketplace issued the July 13, 2015 eligibility determination, you were eligible for and enrolled in Medicare Parts A and B.

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

However, individuals who are no longer eligible for MAGI-based Medicaid because they are receiving Medicare, are over the age of 65, or are disabled may qualify for Medicaid under non-MAGI standards. The Marketplace is required to refer these individuals to the Local Department of Social Services (LDSS) or the New York City Human Resources Administration 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.

Since the record reflects that the Marketplace failed to refer your case to your LDSS, the July 13, 2015 eligibility determination notice terminating your Medicaid effective July 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to refer your case to Suffolk County LDSS. The Marketplace is directed to reinstate your full Medicaid Fee-For-Service coverage and your Medicaid Premium Assistance payments as of August 1, 2015, if it has not already done so through your request for Aid to Continue. The Marketplace is further directed to continue your coverage until your LDSS can issue a redetermination of your eligibility for Medicaid on a non-MAGI basis.

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: 1-800-862-1220) (TTY - Spanish: 1-877-862-4886).

Decision

The July 13, 2015 eligibility determination is **RESCINDED**.

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

The Marketplace is directed to reinstate your Medicaid Fee-For-Service coverage as of August 1, 2015, if it has not already done so through Aid to Continue, and to continue your Medicaid Premium Assistance payments until LDSS can issue a redetermination of your eligibility for Medicaid on a non-MAGI basis.

Effective Date of this Decision: February 24, 2016

How this Decision Affects Your Eligibility

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

Your Medicaid coverage and Medicaid Premium Assistance payments are reinstated as of August 1, 2015 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.

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

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-866-365-6777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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 July 13, 2015 eligibility determination is RESCINDED.

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

Your Medicaid coverage and Medicaid Premium Assistance payments are reinstated as of August 1, 2015 and will continue until a redetermination of your eligibility by your LDSS can be made.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

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Nassau/Suffolk Law Services
Attn: Nora Gonzalez
400 W. Main St., Suite 301
Riverhead, NY 11901