

Steve Sisolak
Governor
Richard Whitley, MS
Director



**DEPARTMENT OF
HEALTH AND HUMAN SERVICES**
Division of Welfare and Supportive Services
Helping people. It's who we are and what we do.



Steve H. Fisher
Administrator

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

CERTIFIED MAIL

DATE MAILED:

March 3, 2021

[REDACTED]
Hrg. No. 21-3364

HEARING DECISION
Medicaid Program

JURISDICTION

This case is adjudicated under the authority of NRS §§ 422A.275 and 422A.280, Chapter 3100 of the Administrative Manual of the Department of Health and Human Services, Division of Welfare and Supportive Services (“DWSS” or “Agency”), and pursuant to a timely appeal filed on December 7, 2020.

INTRODUCTION

The hearing was held on February 16, 2021, at approximately 9:45 a.m. by telephone. [REDACTED] (the “Client”) appeared on her own behalf. Ms. Jamie Sawyer and Ms. Kaylynn Mills appeared on behalf of the Silver State Health Insurance Exchange (the “Agency”).

STANDARD OF REVIEW

Pursuant to NRS § 422A.285, this case is adjudicated under the “substantial evidence” standard. The Nevada Supreme Court has defined substantial evidence as, “evidence that a reasonable mind might accept as adequate to support a conclusion.” *Yamaha Motor Co. v. Arnoult*, 114 Nev. 233, 238, 955 P.2d 661, 664 (1998).

STATEMENT OF CASE

A. Issue

The issue here is whether the Agency, in its Eligibility Notice (“Notice”) dated November 11, 2020, properly found the Client ineligible to purchase insurance through the

1 Exchange and instead referred the Client to the State of Nevada, Division of Welfare and
2 Supportive Services (“DWSS”), for possible Medicaid coverage.

3 **B. The Agency’s position**

4 The Exchange maintains that it was correct to deny the Client’s application because she
5 was potentially eligible for medical benefits under the Medicaid program, which would preclude
6 her from receiving a premium tax credit through the Exchange. The Agency presented its
7 Hearing Summary and **Exhibit 1** through **Exhibit 13** as evidence, incorporated herein by
8 reference.

9 **C. The Client’s position**

10 The Client questioned the status of her Medicaid application with DWSS and stated that
11 she wished to update her Medicaid application with new information. The Exchange stated that
12 it was unable to provide information regarding Medicaid and advised the Client to contact
13 DWSS directly.

14 **FINDINGS OF FACT**

15 I find, by substantial evidence, the following to be true:

16 1. On November 11, 2020, the Client submitted an application for medical
17 insurance through the Exchange. (See **Exhibit 3.**) Based on the information provided in her
18 application, the Exchange determined that the Client was potentially eligible for Medicaid.
19 Accordingly, on November 11, 2020, the Exchange denied her application to receive an
20 insurance premium tax credit, pending a review of Medicaid eligibility by DWSS. (See **Exhibit**
21 **4.**)

22 2. On December 7, 2020, the Client requested a review of the Exchange’s decision.
23 The Exchange conducted an internal review of the Client’s case and affirmed its decision in a
24 Notice of Informal Resolution dated December 15, 2020. (See **Exhibit 10.**)

25 3. On December 20, 2020, the Client requested that the case proceeded to a formal
26 hearing. At the hearing, the Client questioned the status of her Medicaid application with
27 DWSS and stated that she wished to discuss several issues with her Medicaid case manager,
28 including a change in income, treatment of a clergy housing allowance, and her new baby.

29 4. At the close of the hearing, the undersigned requested that the Exchange provide
30 written policy supporting its decision to deny the Client’s application for a premium tax credit,

1 pending a review of Medicaid eligibility. On February 23, 2021, the Exchange provided the
2 requested policy, which is designated as **Exhibit 14**.

3 **CITATION OF LAW/POLICY**

4 The Nevada Health Link Policy Manual provides the rules to determine Exchange
5 program eligibility. Further guidance is provided by the Code of Federal Regulation. Relevant
6 sections include:

7 **NVHL § 2.5 – Income Eligibility Limits, 45 CFR 155.320(c).** Consumers’
8 taxable income must be between 138% and 400% of the Federal Poverty Level to
9 be eligible to receive a tax credit. **Special Income Rule:** Lawfully present
10 individuals who are ineligible for Medicaid due to immigration status may be
11 eligible for APTC if household income is less than 138% of the Federal Poverty
12 Level. A family can determine their APTC status by completing the application
13 process.

14 **NVHL § 2.7 – Verification of Income for a Financial Application, 45 CFR**
15 **155.320 E (iii).** To receive a tax credit, Nevada Health Link must use electronic
16 interfaces to verify the applicant’s self-attestation of income. If the data returned
17 is not reasonably compatible, further documentation will be required from the
18 applicant to verify income. **NOTE:** Reasonable compatibility is a standard of
19 measure utilized to verify that an applicant’s income is between 138 percent and
20 400 percent of Federal Poverty Level, which would qualify them for tax credit.
21 **NOTE:** There are two applications for consumers. A financial application is used
22 for individuals and families who would like to apply for tax credits...

23 **NVHL § 6.15 – Dual Enrollment in Medicaid and Full Price QHP.** If Nevada
24 Health Link becomes aware of a consumer accepted into Medicaid, Nevada
25 Health Link will automatically drop APTC eligibility and disenroll the consumer.

26 **45 CFR 155.305(c), Eligibility for Medicaid.** The Exchange must determine an
27 applicant eligible for Medicaid if he or she meets the non-financial eligibility
28 criteria for Medicaid for populations whose eligibility is based on MAGI-based
29 income, as certified by the Medicaid agency in accordance with 42 CFR
30 435.1200(b)(2), has a household income, as defined in 42 CFR 435.603(d), that is
at or below the applicable Medicaid MAGI-based income standard as defined in
42 CFR 435.911(b)(1) and - **(1)** Is a pregnant woman, as defined in the Medicaid
State Plan in accordance with 42 CFR 435.4; **(2)** Is under age 19; **(3)** Is a parent or
caretaker relative of a dependent child, as defined in the Medicaid State plan in
accordance with 42 CFR 435.4; or **(4)** Is not described in paragraph (c)(1), (2), or
(3) of this section, is under age 65 and is not entitled to or enrolled for benefits
under part A of title XVIII of the Social Security Act, or enrolled for benefits
under part B of title XVIII of the Social Security Act.

1 **45 CFR 155.310(d) Determination of eligibility... (3) Special rule relating to**
2 **Medicaid and CHIP.** To the extent that the Exchange determines an applicant
3 eligible for Medicaid or CHIP, the Exchange must notify the State Medicaid or
4 CHIP agency and transmit all information from the records of the Exchange to the
5 State Medicaid or CHIP agency, promptly and without undue delay, that is
6 necessary for such agency to provide the applicant with coverage.

7 **45 CFR 155.310(e) Timeliness standards... (1)** The Exchange must determine
8 eligibility promptly and without undue delay. **(2)** The Exchange must assess the
9 timeliness of eligibility determinations based on the period from the date of
10 application or transfer from an agency administering an insurance affordability
11 program to the date the Exchange notifies the applicant of its decision or the date
12 the Exchange transfers the application to another agency administering an
13 insurance affordability program, when applicable.

14 CONCLUSION OF LAW/POLICY

15 Based on the foregoing, the undersigned Hearing Officer concludes, by substantial
16 evidence, as follows:

17 **A. The Exchange properly denied the Client’s application for a premium tax credit**
18 **pending a review of her Medicaid eligibility.**

19 Pursuant to 45 CFR 155.310(d), if the Exchange determines an applicant may be eligible
20 for Medicaid, the Exchange must forward the applicant’s information to Medicaid for review.
21 An applicant may be eligible if pregnant, or the parent of a dependent child, with income below
22 the Medicaid limit (45 CFR 155.305(c)). This limit is 138% of the Federal Poverty Level
23 (NVHL § 2.5). A customer cannot receive both Medicaid and a premium tax credit through the
24 Exchange (NVHL § 6.15).

25 Here, the Client submitted an application for medical insurance through the Exchange on
26 November 11, 2020. Based on the information provided in her application, the Exchange
27 determined that the Client was potentially eligible for Medicaid. Accordingly, on November 11,
28 2020, the Exchange denied her request for a premium tax credit, pending a review of Medicaid
29 eligibility by DWSS. The Exchange conducted an internal review and affirmed its original
30 decision on December 15, 2020.

Pursuant to NVHL § 6.15, a customer cannot receive a premium tax credit through the
Exchange if they are eligible to receive Medicaid. Since the Client was pregnant with income
that appeared to below 138% of the Federal Poverty Level, the Exchange had a reasonable
belief that the Client was eligible to receive Medicaid. The Agency is required to transmit the

1 information to Medicaid “promptly and without undue delay” (45 CFR 155.310(d)). There is no
2 indication that the Exchange acted arbitrarily in its determination of potential Medicaid
3 eligibility or with undue delay in notifying Medicaid. Therefore, the Exchange was correct to
4 deny the Client’s application for a premium tax credit, pending a review of her Medicaid
5 eligibility.

6 **DECISION**

7 Based on the foregoing, the Exchange’s November 11, 2020 Eligibility Notice is hereby
8 **UPHELD.**

9 Dated this 3rd day of March, 2021

10 */s/ Christopher Lezak*

11 _____
12 Christopher K. Lezak
13 Hearings Officer

14 This Hearing Decision may be appealed to the District Court of the State of Nevada
15 within ninety (90) days from the above date of the decision.

16 CC: Exchange – Jamie Sawyer
17 Hearing File
18
19
20
21
22
23
24
25
26
27
28
29
30