



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

Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001555

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 22, 2014 eligibility determination and December 29, 2014 disenrollment 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 1-855-900-5557

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).

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

Issue

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

Did the Marketplace properly determine, on December 22, 2014, that your children were no longer eligible for Child Health Plus?

Procedural History

The Marketplace received your initial application for health insurance for your children on July 25, 2014.

On July 26, 2014, the Marketplace issued a notice confirming that you had chosen to receive all information from New York State of Health electronically.

Also on July 26, 2014, the Marketplace received your modified application.

On July 27, 2014, the Marketplace issued an eligibility determination notice stating that your three oldest children were eligible to enroll in a health insurance plan through Child Health Plus with a total monthly premium of \$27.00. This determination was based on a household income of \$60,000.00.

On July 28, 2014, the Marketplace received your modified application for your three oldest children and it prepared a preliminary eligibility determination. It stated that your children were eligible to enroll in a health insurance plan through Child Health Plus with a \$15.00 premium per month, per child. This determination was based on a household income of \$75,000.00.

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On July 29, 2014, the Marketplace issued an enrollment confirmation notice, which stated that your three oldest children were enrolled in Fidelis Care through Child Health Plus with a total monthly premium of \$45.00. It also stated that their health insurance coverage could start as early as September 1, 2014 if you paid the first month's premium.

On [REDACTED], your fourth child, a daughter, was born.

On September 29, 2014, the Marketplace received your modified application for health insurance, which included your fourth child, and it prepared a preliminary eligibility determination. It stated that your four children were eligible to enroll in an insurance plan through Child Health Plus with a \$15.00 premium per month, per child. This preliminary determination was based on your declared income of \$75,000.00.

Also on September 29, 2014, your fourth child was enrolled in Fidelis Care through Child Health Plus. Her coverage with Fidelis Plus was effective September 1, 2014. The coverage end date was listed in your account as August 31, 2015.

No written notices regarding your September 29, 2014 are currently in your Marketplace file.

On November 6, 2014 and on November 20, 2014, the Marketplace issued notices that stated it was time to renew your health insurance coverage for 2015. The notices stated that, based on information from federal and state sources, the Marketplace could not make a decision about whether your children qualified for financial help paying for their health coverage. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help you were receiving might end.

No updates were made to your account by December 20, 2014.

On December 22, 2014, the Marketplace issued an eligibility redetermination notice that stated your three oldest children were no longer eligible for Child Health Plus because you had not responded to the renewal notice and had not completed your renewal within the required timeframe. It further stated that your youngest child was not eligible for Child Health Plus because the Marketplace was unable to validate her Social Security number, you did not respond to the renewal notice, and you did not complete your renewal within the required timeframe.

On December 29, 2014, the Marketplace issued a disenrollment notice, which stated that your children's coverage with Fidelis Care would end effective December 31, 2014 because they were no longer eligible to enroll in health insurance through New York State of Health.

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On January 3, 2015, the Marketplace received your updated application for health insurance for your children.

On January 4, 2015, the Marketplace issued an eligibility redetermination notice, which stated that your three oldest children were eligible to enroll through Child Health Plus with a \$9.00 premium per month effective February 1, 2015. It further stated that your youngest child was conditionally eligible for Medicaid effective January 1, 2015. This determination was based on a household income of \$65,000.00.

On January 7, 2015, the Marketplace issued an eligibility redetermination notice, which stated that your three oldest children were eligible to enroll through Child Health Plus with a \$15.00 premium per month effective February 1, 2015. It further stated that your youngest daughter was newly conditionally eligible to enroll through Child Health Plus with a \$15.00 premium per month effective February 1, 2015. The notice stated that your youngest daughter's Social Security Number must be provided before April 8, 2015 to confirm her eligibility. This determination was based on a household income of \$75,000.00.

On January 9, 2015, the Marketplace issued a disenrollment notice, which stated that your youngest daughter's Medicaid fee-for-service coverage would be discontinued effective January 31, 2015 because she was no longer eligible to remain enrolled in her current health insurance.

On January 22, 2015, you spoke with the Marketplace's Account Review Unit and appealed your children's disenrollment from their health insurance coverage through Child Health Plus.

On February 3, 2015, the Marketplace issued an enrollment confirmation notice, which stated that as of January 6, 2015, your four children were enrolled in Fidelis Care through Child Health Plus with a total monthly premium responsibility of \$45.00, although it is not clear upon what information this premium level is based. The notice further stated that their health insurance coverage could start as early as March 1, 2015 if you pay the first month's premium.

On March 3, 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.

On February 25, 2015 and February 28, 2015, the Marketplace issued enrollment confirmation notices, which again stated that the total monthly premium responsibility for your children would be \$45.00.

On May 2, 2015, the Marketplace issued a disenrollment notice stating that your children's coverage had ended effective April 30, 2015 because the premiums had not been paid.

Findings of Fact

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

- 1) You testified that when you initially applied for health insurance through the Marketplace, you were assisted by a broker. You testified that the broker who assisted you was [REDACTED]. You further testified that you were never given an invitation code and, therefore, could not access your account online. You testified that you still cannot access your Marketplace account online.
- 2) You testified, and the record reflects, that your three oldest children were enrolled in a Child Health Plus plan effective September 1, 2014 to August 31, 2015.
- 3) The record reflects that your youngest child was born on [REDACTED]. The Marketplace's system indicated that her enrollment in a Child Health Plus plan was effective from September 1, 2014 to August 31, 2015.
- 4) You testified that your youngest child was not added to your account after she was born.
- 5) You testified that you paid the Child Health Plus premiums for your children for January 2015, but this payment was ultimately returned.
- 6) You testified that you were never made aware that you must renew your children's health insurance applications for 2015 because you did not receive any emails from the Marketplace. You further testified that you did not receive the renewal notices or any follow up notices regarding your eligibility from the Marketplace.
- 7) You testified that you were first aware that your children did not have health insurance coverage in January 2015, when you took your youngest to the doctor.
- 8) You testified, and the record reflects, that you expect a household income of \$75,000.00 for the 2015 tax year.

- 9) The record reflects that you and your spouse expect to file your 2015 federal income tax return as married filing jointly and to claim your four children as dependents.
- 10) You testified that you have incurred medical bills for your youngest child during January and February 2015, and you are requesting reimbursement for these bills.

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

Applicable Law and Regulations

Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law (PHL) § 2511(2)(b) and (3)).

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (PHL § 2511(2)(a)(iii)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% of the FPL or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

Generally, a child who is eligible for CHP may only have his or her financial eligibility redetermined once every 12 months, and no more frequently than once every twelve months (42 CFR § 435.916(a)).

Legal Analysis

The first issue is whether the Marketplace properly determined on December 22, 2014 that your four children were no longer eligible for Child Health Plus (CHP).

Generally, the Marketplace may redetermine a child's eligibility for CHP only once every 12 months, and no more frequently than once every twelve months.

On July 28, 2014, your three oldest children were determined eligible to enroll through CHP with a \$15.00 premium per month, per child, and were enrolled in Fidelis Care effective September 1, 2014.

The Marketplace's system also reflected their enrollment with the CHP plan was effective September 1, 2014 to August 31, 2015, which reflected a 12 month CHP eligibility year.

On [REDACTED], your youngest child was born. The record reflects that she was added to your Marketplace account on September 29, 2014 and was enrolled in Fidelis Care through CHP with a \$15.00 premium per month. The Marketplace's system also indicated that her enrollment with the CHP plan was also effective September 1, 2014 to August 31, 2015.

On November 6, 2014 and November 20, 2014, the Marketplace issued annual eligibility redetermination notices for your children. These determinations were made two months from the date of your children's original CHP enrollment. Since these redeterminations were made earlier than the end of their 12 month CHP eligibility year, they were improper, and the termination of the children's coverage based on your failure to respond to these notices was also improper.

Moreover, you credibly testified that you did not receive any emails regarding these notices, so you did not have the opportunity to respond even if the notices were properly sent.

Therefore, the Marketplace improperly terminated your children's coverage and the November 6, 2014 and November 20, 2014 renewal notices, the December 22, 2014 eligibility determination, and the December 29, 2014 disenrollment notice are RESCINDED.

Your case is REMANDED to the Marketplace to reinstate your children's enrollment in their CHP plan for the remainder of their previous CHP eligibility year, effective January 1, 2015 to August 31, 2015, to address any medical bills incurred during January and February 2015, and to clarify the premium level of their coverage.

Decision

The November 6, 2014 and November 20, 2014 renewal notices, the December 22, 2014 eligibility determination, and the December 29, 2014 disenrollment notice are RESCINDED.

Your case is REMANDED to the Marketplace to reinstate your children's enrollment in their Child Health Plus (CHP) plan for the remainder of their previous CHP eligibility year, effective January 1, 2015 to August 31, 2015, to address any medical bills incurred during January and February 2015, and to clarify the premium level of their coverage.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

Your four children's Child Health Plus coverage was effective September 1, 2014 to August 31, 2015, but in order for the coverage to be effective, you must make any outstanding premium payments.

Your case is being returned to the Marketplace to review your account regarding any outstanding premiums and medical expenses.

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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 6, 2014 and November 20, 2014 renewal notices, the December 22, 2014 eligibility determination, and the December 29, 2014 disenrollment notice are RESCINDED.

Your case is REMANDED to the Marketplace to reinstate your children's enrollment in their Child Health Plus (CHP) plan for the remainder of their previous CHP eligibility year, effective January 1, 2015 to August 31, 2015, to address any medical bills incurred during January and February 2015, and to clarify the premium level of their coverage.

Your four children's CHP coverage was effective September 1, 2014 to August 31, 2015, but in order for the coverage to be effective, you must make any outstanding premium payments.

Your case is being returned to the Marketplace to review your account regarding any outstanding premiums and medical expenses.

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:

[REDACTED]
[REDACTED]
[REDACTED]