



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

Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001585

[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 January 24, 2015 preliminary eligibility redetermination.

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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[REDACTED]
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Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your son was eligible for Medicaid Fee for Service (FFS) as of February 1, 2015 and enrolled in a Medicaid Managed Care (MMC) plan beginning April 1, 2015?

Did the Marketplace properly determine that, as of February 24, 2015, you are eligible for Medicaid FFS beginning January 1, 2015, and then subsequently beginning March 1, 2015?

Procedural History

On July 12, 2014, the Marketplace determined your son was eligible for Medicaid and issued an enrollment notice indicating he was enrolled in SCHC Total Care, Inc., a Medicaid managed care (MMC) plan, as of August 1, 2014.

On January 12, 2015, you updated your application and the Marketplace prepared a preliminary eligibility redetermination that you and your son were eligible for Medicaid effective January 1, 2015.

On January 13, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the January 12, 2015 preliminary eligibility redetermination.

That same day, the Marketplace issued an enrollment notice that your insurance coverage through Medicaid Fee for Service (FFS) will begin January 1, 2015 and enrollment with an MMC will begin February 1, 2015. It also said that your son's

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insurance coverage through Medicaid will begin January 1, 2015, and he did not need to pick a plan.

Also that same day, the Marketplace issued a disenrollment notice that your son's current enrollment in an MMC will end effective January 31, 2015.

Between January 14, 2015 and January 24, 2015, the Marketplace issued notices of eligibility redeterminations that you remain eligible for Medicaid effective January 1, 2015, and your son is eligible for Medicaid beginning January 1, 2015.

The Marketplace also issued enrollment notices during that period that your insurance coverage through Medicaid will begin January 1, 2015 and enrollment in an MMC will begin February 1, 2015. The notices further indicated that the beginning date of your son's enrollment in Medicaid remained as January 1, 2015, and he did not need to pick a plan.

On January 24, 2015, you appealed the eligibility redetermination of that date with respect to your son's eligibility for Medicaid FFS.

On January 25, 2015, January 29, 2015, and February 1, 2015, the Marketplace issued notices of eligibility redetermination that were consistent with the January 24, 2015 notice of eligibility redetermination.

On February 12, 2015, the Marketplace issued an enrollment notice that was consistent with the enrollment notices issued between January 14, 2015, and January 24, 2015.

On February 24, 2015, the Marketplace issued a disenrollment notice that said your current coverage under the MMC plan in which you were enrolled in 2015 will end effective February 28, 2015, because you are no longer eligible to remain enrolled in that plan.

That same day, the Marketplace issued the last notice of eligibility determination before hearing that you are eligible for Medicaid FFS as of March 1, 2015, and your son is eligible for Medicaid FFS beginning February 1, 2015. The enrollment notice of that same date further indicated that your son's enrollment in an MMC, SCHC Total Care, Inc., will begin April 1, 2015.

On February 28, 2015, the Marketplace issued an enrollment notice that was consistent with the February 24, 2015 enrollment notice.

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 held open for up to fifteen days to allow you the opportunity to produce proof that your son was not covered under third party insurance. The record was to be

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closed on March 18, 2015, or upon receipt of the required documentation, whichever occurred earlier.

On March 5, 2015, the Marketplace's Appeals Unit received a two page fax from you. It consisted of: (1) A cover page; and (2) A letter, dated January 12, 2015, from your employer's health insurance plan, Excellus Blue Cross Blue Shield. This fax was made part of the record as "Appellant's Exhibit C1."

Since the requested evidence was received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you enrolled your son in a Medicaid managed care (MMC) plan through the Marketplace as directed by the local Department of Social Services when you went to recertify his coverage in June or July 2014.
- 2) You testified and your Marketplace account reflects that your son was enrolled under an MMC plan through the Marketplace as of August 1, 2014.
- 3) You testified that you believed your son's coverage under the MMC plan was for one year, or until July 31, 2015.
- 4) You testified that you first updated your household's Marketplace application on January 12, 2015 because your coverage through your former employer's health plan was due to end on January 31, 2015, and you needed health insurance coverage through the Marketplace as of then.
- 5) You testified and provided the Marketplace with a March 2, 2015 letter from your employer that your health coverage through work had been cancelled effective January 31, 2015 (Appellant's Exhibit A).
- 6) You testified and provided the Marketplace with a March 2, 2015 letter from your employer's health insurance plan that your health coverage had been cancelled effective January 31, 2015 (Appellant's Exhibit B).
- 7) You testified and your Marketplace account reflects that your son was taken out of the MMC plan in which he had been enrolled when you applied for coverage for yourself on January 12, 2015 because the

Marketplace's data sources showed he had third party health insurance and was no longer eligible for coverage under an MMC plan.

- 8) On January 13, 2014, you uploaded to your Marketplace account a January 12, 2015 letter from your former employer's health insurer that your son has never been insured through your employer sponsored health insurance plan (Appellant's Exhibit C). You also provided a copy of that letter to the Marketplace's Appeals Unit on March 10, 2015 (Appellant's Exhibit C1).
- 9) You testified that you would like your son re-enrolled in the MMC plan he had until January 31, 2015, because his treating specialists do not participate in Medicaid Fee for Service (FFS) and he requires surgical care and medical intervention.
- 10) You further testified that you would like to be enrolled in an MMC plan effective March 1, 2015 because your treating specialist, whom you see on a monthly basis, does not participate in Medicaid FFS.
- 11) You and your children reside in [REDACTED] 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 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 (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

A child who is at least one year of age and younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the federal poverty level (FPL) (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$19,790.00 for a three-person household (80 Fed. Reg. 3236, 3237).

With regard to enrollment in a Medicaid Managed Care plan (MMC), Medicaid recipients generally, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC (18 NYCRR § 360-10.4(a)). Mandatory enrollment in an MMC is required in ██████████ County.

For plan selections received within the first two weeks of the month, MMC enrollment is effectuated on the first of the following month. For plan selections/applications received after the first two weeks of the month, MMC enrollment is effectuated the first of the second following month (Medicaid Managed Care Model Contract (Appendix H), March 1, 2014).

To ensure continuity of coverage, applicants may be determined eligible for and have their coverage activated at any time during the month, with Medicaid Fee For Service (FFS) coverage provided until MMC plan enrollment is activated on the first day of the applicable month.

Children under the age of nineteen who are determined eligible for Medicaid remain eligible for Medicaid until the earlier of: (1) the last day of the month which is twelve months following the determination of eligibility for Medicaid or (2) the last day of the month in which the child reaches the age of nineteen (N.Y. Social Services Law § 366(4)(b)(3)). This continuous coverage policy extends to individuals, including children in this age group, who are enrolled in an MMC plan (see CMS Section 115 of the Social Security Act Medicaid Demonstration, NY Partnership Plan, Waiver Number 11-W-00114/2)

Legal Analysis

The issue is whether the Marketplace properly determined that your son's enrollment in a Medicaid Managed Care (MMC) plan is terminated effective January 31, 2015, and replaced with Medicaid Fee for Service (FFS) until April 1, 2015 when he is to be re-enrolled in the MMC plan.

Your son was originally found eligible to enroll in an MMC plan effective August 1, 2014. According to the continuous coverage policy, he should have remained enrolled in the MMC plan for 12 months, or until July 31, 2015.

However, on January 12, 2015, the Marketplace reran your son's eligibility when you updated your Marketplace application and it received a positive ping that he had third party health insurance. The third party health insurance ping triggered your son's disenrollment from the MMC plan he had been enrolled in since August 1, 2015.

To ensure he did not have a gap in coverage, the Marketplace put him in Medicaid FFS effective January 1, 2015, which it corrected on February 24, 2015

to be effective February 1, 2015, since his MMC plan remained in effect until January 31, 2015.

Notwithstanding the Marketplace's efforts to ensure continuity of coverage and proof that you provided on January 13, 2015 that your son was not covered under third party health insurance, his enrollment in the MMC plan should have remained in effect under the continuous coverage policy. For this reason, the Marketplace's notices of eligibility redetermination issued from January 24, 2015 to February 24, 2015, insofar as these notices relate to your son's eligibility are rescinded and his enrollment in the MMC plan is to be reinstated effective February 1, 2015 to July 31, 2015. Any and all enrollment notices that state otherwise are no longer in effect.

Decision

The Marketplace's notices of eligibility redetermination issued from January 24, 2015 to February 24, 2015, insofar as these notices relate to your son's eligibility, are RESCINDED.

Your case is being returned to the Marketplace with a direction that your son's enrollment in the Medicaid Managed Care (MMC) plan he was enrolled in as of August 1, 2014 is to be reinstated effective February 1, 2015 to July 31, 2015.

Any and all enrollment notices that state otherwise are no longer in effect.

The Marketplace's February 24, 2015 notice of eligibility redetermination as it relates to your enrollment in Medicaid Fee for Service (FFS) as of March 1, 2015 and in an MMC plan as of April 1, 2015 is AFFIRMED.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

Your son's enrollment in the Medicaid Managed Care (MMC) plan he was enrolled in as of August 1, 2014 is being reinstated as of February 1, 2015 to July 31, 2015.

Your enrollment in Medicaid Fee for Service (FFS) for the month of March 2015 remains in effect.

Your enrollment in an MMC plan effective April 1, 2015 remains in effect.

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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 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's notices of eligibility redetermination issued from January 24, 2015 to February 24, 2015, insofar as these notices relate to your son's eligibility are RESCINDED.

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Your case is being returned to the Marketplace with a direction that your son's enrollment in the Medicaid Managed Care (MMC) plan he was enrolled in as of August 1, 2014 is to be reinstated effective February 1, 2015 to July 31, 2015.

Any and all enrollment notices that state otherwise are no longer in effect.

The Marketplace's February 24, 2015 notice of eligibility redetermination as it relates to your enrollment in Medicaid Fee For Service (FFS) as of March 1, 2015 and in an MMC plan as of April 1, 2015 is AFFIRMED.

Your enrollment in Medicaid FFS for the month of March 2015 remains in effect.

Your enrollment in an MMC plan effective April 1, 2015 remains in effect.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]