



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: AP000000001588

[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 25, 2015 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 letter.

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 provide timely notice of the January 25, 2015 eligibility redetermination regarding your niece and nephew?

Did the Marketplace properly redetermine that your niece and nephew are eligible for Medicaid beginning March 1, 2015?

Procedural History

You initially applied for health insurance through the Marketplace on September 18, 2014 for you, your spouse, and your niece and nephew.

On October 1, 2014, the Marketplace issued an eligibility determination that said your niece and nephew are not eligible to receive tax credits because they are qualified for coverage on another New York State of Health account and are not eligible for cost-sharing reductions because they are ineligible for tax credits.

You updated your application on several occasions and on December 1, 2014, the Marketplace issued a notice of eligibility redetermination that said, as of November 5, 2014, your niece and nephew are eligible to purchase a qualified health plan at full cost through New York State of Health, effective December 1, 2014. That notice further informed you that your niece and nephew do not qualify for Child Health Plus (CHP) or Medicaid because federal and state data sources show that they are already enrolled in

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Medicaid, CHP, or another program. It also states that they are not eligible for Medicaid because they qualify for coverage on another NY State of Health account.

On December 18, 2014, the Marketplace issued a notice of eligibility redetermination that contained the same findings as the December 1, 2014 notice, except that the effective date was now January 1, 2015.

On January 25, 2015, the Marketplace issued a notice of eligibility redetermination that your niece and nephew are eligible for Medicaid effective March 1, 2015, because their household income of \$10,392.00 is at or below the allowable income limit.

On January 26, 2015, you appealed the eligibility determination insofar as the timeliness of the notice of January 25, 2015 eligibility determination and to request that the start date of your niece and nephew's enrollment in Medicaid be September 1, 2014.

Subsequently, on February 10, 2015, the Marketplace issued a notice of eligibility redetermination that said, in part, as of February 9, 2015 your niece and nephew remain eligible for Medicaid effective February 1, 2015.

That same day, the Marketplace issued a letter confirming their enrollment in Medicaid Fee for Service as of February 1, 2015, and CDPHP, a Medicaid Manage Care plan, as of March 1, 2015.

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.

Findings of Fact

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

- 1) You applied for health insurance coverage through the Marketplace on September 18, 2014, for you, your spouse, and your niece and nephew.
- 2) You testified that your niece and nephew did not have other health insurance coverage at that time.
- 3) On October 2, 2014, you sent the Marketplace a four page fax, which was uploaded to your Marketplace account on October 6, 2014. The third and fourth page is a copy of a Family Court Temporary Order on Petition for Custody, based on a petition filed August 19, 2014 requesting an order awarding custody of your niece and nephew to you and your husband. The Order, entered on September 10, 2014, states that you and your husband

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shall have physical custody of the children and will share joint legal custody with their father.

- 4) On November 7, 2014, you sent the Marketplace a three page fax, which was uploaded to your Marketplace account on November 10, 2014. The third page of the fax is a copy of an Order to Show Cause that has an address of "████████████████████," for the children's father and next to their mother's name it says "(deceased)."
- 5) According to your Marketplace account, on February 9, 2015, your niece and nephew were determined eligible for Medicaid effective March 1, 2015.
- 6) You testified that you had not taken your niece or nephew to the doctors while you were waiting for an eligibility determination to be made by the Marketplace.
- 7) You testified that you spoke with a Marketplace representative and were assured that Medicaid Fee for Service for your niece and nephew would be backdated to February 1, 2015 and, based on this assurance, you took your nephew to the pediatrician for a well visit and bloodwork that month.
- 8) You testified that the pediatrician you scheduled an appointment with is a participating provider in Medicaid Fee for Services.
- 9) You testified that, after the doctor's visit and the lab work, you were told by the doctor's office that there was no active Medicaid account for your nephew for February 2015.
- 10) You called the Marketplace to see if it had been corrected in the system and were told it had not; hence, you filed an appeal.
- 11) You testified that you received the identification cards for CDPHP, the Medicaid Managed Care plan, with March 1, 2015 as the start date for your niece and nephew, but still have not received any confirmation or benefit cards for the children for Medicaid Fee for Service coverage beginning February 1, 2015, despite being told they were and receiving notices from the Marketplace that said they were.
- 12) You want Medicaid Fee for Service to be provided for the month of February 2015 and to be reimbursed for the cost of the doctor's visit and lab fees.

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

Applicable Law and Regulations

When an individual applies for insurance through the Marketplace, the Exchange 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 Exchange must base the time period from the date of application to the date the Exchange notifies the applicant of its decision (45 CFR § 155.310(e)(2)).

The Exchange must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Generally, Medicaid may be made effective retroactive to the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

Legal Analysis

The first issue under review is whether the Marketplace failed to provide timely notice of your eligibility determination.

You applied for health insurance coverage for your niece and nephew on September 18, 2014, and your faxed documents were uploaded to your Marketplace account on October 6, 2014 and November 10, 2014.

Based on the federal and state data sources, during the time of your application through November 5, 2014, the Marketplace search showed that they had other health coverage and were only eligible to purchase a qualified health plan through the Marketplace.

Although you contend this was in error, there is no evidence in the record to the contrary such that the Marketplace's data sources are deemed correct and the October 1, 2014 and December 1, 2014 eligibility redeterminations were timely issued.

However, Medicaid may be made effective retroactive to the first day of the month in which an applicant is found eligible (42 CFR § 435.915(b)). On January 24, 2015, the Marketplace prepared another preliminary eligibility redetermination regarding your niece and nephew based on updated information it received. It redetermined that they were eligible for Medicaid beginning March 1, 2015. Under the law, they should have been deemed eligible as of the first of the month in which they were found eligible, that is, as of January 1, 2015.

Notwithstanding this finding, the Marketplace issued a subsequent eligibility redetermination on February 10, 2015 that your niece and nephew are eligible for Medicaid Fee for Service as of February 1, 2015 and Medicaid Managed Care as of March 1, 2015. This notice corroborates what you testified you were told by the Marketplace and is what you are ultimately seeking on appeal and remains in effect.

Therefore, your niece and nephew are eligible for Medicaid Fee for Service for the month of February 2015, and Medicaid Managed Care as of March 1, 2015.

Decision

The Marketplace issued timely eligibility determinations on October 1, 2015 and December 1, 2015; therefore those determinations are AFFIRMED.

The January 25, 2015 notice of eligibility redetermination has been superseded (replaced) by the Marketplace's February 10, 2015 notice of eligibility redetermination and, therefore, is moot.

The February 10, 2015 eligibility redetermination is AFFIRMED.

Effective Date of this Decision: June 16, 2015

How this Decision Affects Your Eligibility

This decision does not change your niece and nephew's eligibility for Medicaid.

Your niece and nephew are eligible for Medicaid Fee for Service for the month of February 2015, and Medicaid Managed Care as of March 1, 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.

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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
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- By fax: 1-855-900-5557

Summary

This decision does not change your niece and nephew's eligibility for Medicaid.

The Marketplace issued timely eligibility determinations on October 1, 2015 and December 1, 2015; therefore those determinations are AFFIRMED.

The January 25, 2015 notice of eligibility redetermination has been superseded (replaced) by the Marketplace's February 10, 2015 notice of eligibility redetermination and, therefore, is moot.

The February 10, 2015 eligibility redetermination is AFFIRMED.

Your niece and nephew are eligible for Medicaid Fee for Service for the month of February 2015, and Medicaid Managed Care as of March 1, 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:

[REDACTED]
[REDACTED]
[REDACTED]