



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

Notice of Decision

Decision Date: August 12, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001670

[REDACTED]

Dear [REDACTED],

On February 25, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 4, 2014 eligibility determination.

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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Decision Date: August 12, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001670

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Issue

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

Did the Marketplace properly redetermine your children eligible for Child Health Plus coverage at full cost effective January 1, 2015?

Procedural History

On March 13, 2014, the Marketplace issued a notice of eligibility determination stating that your children were eligible to enroll in a Child Health Plus health insurance plan with a \$45.00 monthly premium per child. This eligibility was based on a household income of \$80,000.00. The notice also confirmed their enrollment in a plan, which would begin after the first premium payment was received by the health plan. Their coverage eventually began on April 1, 2014.

On November 4, 2014, the Marketplace issued a notice stating, in pertinent part, that it was time to renew your children's health insurance coverage for 2015, and that your children now qualified for health care coverage in a full-price Child Health Plus plan and their coverage would continue in the same plan as the previous year. This eligibility was effective January 1, 2015, and was based on a finding that your household income would be in excess of \$95,400.00 for 2015. The notice also stated that if you thought the information in this determination was incorrect, you would have to make any necessary changes to your NY State of Health account by December 15, 2014 in order for the changes to be effective January 1, 2015. If you did not make any necessary corrections, any financial help you were receiving might end.

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No changes were made to your account until January 27, 2015.

On January 28, 2015, the Marketplace issued a notice of eligibility redetermination stating that your children were eligible to enroll through Child Health Plus with a \$45.00 monthly premium per child, effective March 1, 2015.

On February 2, 2015, you spoke with the Marketplace's Account Review Unit and appealed the November 4, 2014 renewal notice insofar as it enrolled your children in a Child Health Plus plan at full cost.

On February 25, 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) Your account indicates that you elected to receive notices from the Marketplace through the mail; no notices have been returned to the Marketplace as undeliverable.
- 2) You testified, and the record reflects, that you currently reside with your spouse and your two children.
- 3) The record reflects that your children were initially determined eligible to enroll through Child Health Plus (CHP) with a \$45.00 monthly premium per child on March 13, 2014.
- 4) According to the March 12, 2014 application, you attested to a household income of \$80,000.00.
- 5) The Marketplace's system reflects that your children were enrolled in a CHP plan through Emblem Health effective April 1, 2014 to March 31, 2015 (NYSOH Exhibit 1).
- 6) You testified that you did not receive the November 4, 2014 renewal notice from the Marketplace.
- 7) You testified that you were not aware of any changes to your children's health insurance premiums until the full cost January 2015 CHP premium payment was automatically debited from your bank account.
- 8) You testified that you expect to have a household income of \$79,286.00 for the 2015 tax year.

- 9) You testified that you would like the overdrawn amount for your children's health insurance premiums reimbursed.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for that year, including any expected eligibility for financial assistance (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice within a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice, and any reported changes (45 CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

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 federal poverty level (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 § 2511(2)(b) and (3)).

The "period of eligibility" for CHP is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid or child no longer resides in

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New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law [PHL] § 2510(6)).

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 only issue is whether the Marketplace properly redetermined, pursuant to the November 4, 2014, eligibility determination, that your children were eligible to enroll in Child Health Plus (CHP) only at full cost, effective January 1, 2015.

On March 13, 2014, the Marketplace issued a notice of eligibility determination stating that your children were eligible to enroll in a Child Health Plus health insurance plan with a \$45.00 monthly premium per child. Your children's coverage eventually began on April 1, 2014.

When the Marketplace issued the November 4, 2014 notice renewing your children's health insurance coverage, the Marketplace redetermined your children's eligibility for financial assistance. This redetermination was made seven months from the date of your March 12, 2014 application. Since seven months is a shorter timeframe than the 12-month CHP eligibility year, the Marketplace improperly redetermined your children's CHP eligibility as of November 4, 2014.

The November 4, 2014 eligibility redetermination is **RESCINDED** insofar as it redetermined your children's eligibility for financial assistance prior to the end of their twelve-month CHP eligibility year.

Your case is **REMANDED** to the Marketplace to reinstate your children's original CHP enrollment in Emblem Health with a \$45.00 premium per month per child for the remainder of their previous CHP eligibility year effective April 1, 2014 to March 31, 2015.

You are entitled to reconciliation of overpaid premiums for the months of January, February, and March 2015.

Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

Decision

The November 4, 2014 renewal notice is MODIFIED to rescind the findings regarding your children.

Your case is REMANDED to the Marketplace to reinstate your children's original Child Health Plus (CHP) enrollment in Emblem Health with a \$45.00 monthly premium per child for the remainder of their previous CHP eligibility year effective April 1, 2014 to March 31, 2015.

Effective Date of this Decision: August 12, 2015

How this Decision Affects Your Eligibility

Your children are eligible to enroll in Child Health Plus (CHP) for 12 consecutive months effective April 1, 2014 to March 31, 2015.

You are entitled to reconciliation of overpaid premiums for the months of January, February, and March 2015.

Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

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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P.O. Box 11729
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Summary

The November 4, 2014 renewal notice is MODIFIED to rescind the findings regarding your children.

Your case is REMANDED to the Marketplace to reinstate your children's original Child Health Plus (CHP) enrollment in Emblem Health with a \$45.00 premium per month per child for the remainder of their previous CHP eligibility year effective April 1, 2014 to March 31, 2015.

You are entitled to reconciliation of overpaid premiums for the months of January, February, and March 2015.

Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

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:

