



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001870

[REDACTED]

Dear [REDACTED],

On April 14, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 25, 2015 notices.

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).

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Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001870



Issues

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

Did the Marketplace properly issue a notice of eligibility determination for you and your spouse for the 2015 tax year in a timely manner?

Did the Marketplace properly determine that you and your spouse's eligibility and enrollment in a qualified health plan was effective April 1, 2015?

Did the Marketplace properly determine that your son's coverage through his Child Health Plus plan was not effective January 1, 2015?

Procedural History

On November 5, 2014, the Marketplace issued a notice that it was time to renew your household's health insurance coverage for 2015. That notice stated that you and your husband were eligible to receive up to \$260.81 in advance premium tax credit (APTC) per month. Your son was eligible for coverage with Child Health Plus for a cost of \$45.00 per month. You and your husband would re-enroll in your current health plan with Excellus BlueCross Blue Shield Platinum and your son would be re-enrolled into his current health plan with Excellus BCBS Child Health Plus for another year, and no further action was required. The start date of the reenrollment was January 1, 2015. The notice further stated that if the Marketplace made a mistake or if anything changed in your life you should contact the Marketplace by November 15, 2014 in order for the changes to go into effect with the new year.

On November 21, 2014 the income information in your application was updated to state that your spouse's expected yearly income was \$15,684.00 and your son's expected yearly income was \$7,836.00.

On November 22, 2014 the Marketplace issued a notice in response to your November 21, 2014 application. It that stated you, your spouse, and your son might be eligible for health insurance through the Marketplace but more information was needed to make a determination. The notice requested that you provide documentation of your household's income by December 9, 2014 to confirm that the information you provided is accurate, or you might lose your eligibility for insurance or our financial assistance.

No changes were made to your account by December 9, 2014.

On January 12, 2014 the Marketplace reran your application for health insurance with your spouse's expected yearly income of \$15,684.00 and your son's expected yearly income of \$7,836.00.

On January 13, 2015 the Marketplace issued a notice that stated you, your husband, and your son might be eligible for health insurance through the Marketplace but that more information was needed to make a determination. The notice requested that you provide documentation of your household's income by January 30, 2015 to confirm that the information you provided was accurate.

On January 12, 2015 and on January 15, 2015 income documentation was uploaded to your Marketplace account.

On January 16, 2015 the Marketplace issued a notice that stated you had previously been notified that additional information was required to confirm your eligibility. The notice further stated that you had submitted documentation but that the documentation appeared to be insufficient to resolve the request.

On January 20, 2015 the Marketplace received four applications from your on-line account. The first application submitted that day stated that your expected yearly income was \$6,000.00, your spouse's expected yearly income was \$27,948.00, and your son's expected yearly income was \$7,968.00. The last application submitted that day stated that that your expected yearly income was \$3,600.00, your spouse's expected yearly income was \$20,748.00, and your son's expected yearly income was \$7,968.00.

On January 21, 2015 the Marketplace issued an eligibility determination notice that stated you and your husband were eligible to receive up to \$633.00 per month in APTC and cost-sharing reductions if you enrolled into a silver level plan. The notice also stated that your son was eligible to enroll through Child Health Plus with a \$9.00 per month premium. This eligibility was based on a household income of \$32,316.00 and was effective March 1, 2015.

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On February 24, 2015 the income information in your application was updated to state that your expected yearly income was \$1,620.00, your spouse's expected yearly income was \$20,268.00, and your son's expected yearly income was \$7,968.00. That day, the Marketplace prepared a preliminary eligibility determination that stated you and your husband were eligible for up to \$657.00 in APTC and cost sharing reductions if you enrolled in a silver level health plan. The Marketplace also responded to your son's application by indicating that your son's eligibility could not be determined on the available information and directed you to provide additional information on your income.

On February 24, 2015 you contacted the Marketplace's Accounts Review unit and requested an appeal insofar as you, your husband, and your son did not have insurance coverage effective January 1, 2015.

On February 25, 2015 the Marketplace issued an eligibility determination notice based on your February 24, 2015 application that stated you and your husband were eligible to receive up to \$657.00 per month in APTC and cost-sharing reductions if you enrolled into a silver level plan. This eligibility was effective April 1, 2015.

Also on February 25, 2015 the Marketplace issued a notice to confirm that you and your husband were enrolled in Silver Standard and that your coverage could begin as early as April 1, 2015 if you pay your first month's premium.

Also on February 25, 2015 the Marketplace issued a notice that stated your son may be eligible for health insurance through the Marketplace but more information was needed to make a determination. The notice requested that you provide documentation of your household's income by March 14, 2015 to confirm that the information you provided is accurate.

On April 14, 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 testified that you were seeking you and your spouse's financial assistance eligibility and enrollment in a qualified health plan to be effective January 1, 2015. You further testified that you were seeking your son's coverage in Child Health Plus to be effective January 1, 2015.

- 2) Your applications indicated that you plan on filing your tax return as married filing jointly with your spouse and you will claim your son as a dependent on that tax return.
- 3) You testified that you mailed in income documentation to the Marketplace at the beginning of December 2014 in order to update information in your account.
- 4) There is no documentation in your Marketplace account that was uploaded in December 2014.
- 5) On January 12, 2015 you faxed in income documentation to the Marketplace. The documentation included a letter from you stating that you then had no income, a letter from the Social Security Administration that stated your spouse's new monthly benefit amount is \$1,329.00, and a letter from the Social Security Administration that stated your son's new monthly benefit amount was \$664.00. This documentation was uploaded to your Marketplace account on January 15, 2015.
- 6) You testified that on January 12, 2015 you spoke to a representative from the Marketplace and explained your household's complicated income situation. Specifically, you explained that you and your husband are attorneys who work as independent contractors and you cannot provide accurate documentation that shows the amount of income you both anticipate earning.
- 7) You testified that the income information contained in your February 24, 2015 application to the Marketplace is a ballpark figure.

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

Applicable Law and Regulations

Timely Notice of Eligibility Determination

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, the Marketplace must base the time period from the date of application to the date the Marketplace notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is insufficient information for the Marketplace to make an eligibility determination, then the

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Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR § 155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)(2)).

Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, the Marketplace must generally make that redetermination effective on the first day of the month following the date the Marketplace is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, the Marketplace may determine that any change made after the 15th of any month will not be effective until the first of the next following month (45 CFR § 155.330 (f)(2)), and it has chosen to do so.

When an eligibility redetermination results in a change in the amount of APTC for the benefit year, the Marketplace must recalculate the amount of APTC in such a manner as to account for any advance payments already made on behalf of the tax filer, such that the recalculated advance payment amount is projected to result in total advance payments for the benefit year that correspond to the tax filer's total projected premium tax credit for the benefit year (45 CFR § 155.330(g)).

End of Tax Year Reconciliation

At the end of a tax year, a person who elects to take the advance premium tax credit to help pay for the cost of an insurance premium must file a tax return to reconcile any differences between the amount of income the person reported to the Marketplace and their actual gross income for that year. A person who received less tax credit than her maximum entitlement, based on gross income, may receive an income tax refund, or owe less in taxes. A person who received more tax credit than his maximum entitlement, based on gross income, will owe the excess as an additional income tax liability (26 CFR § 1.36B-4).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with

subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Legal Analysis

The first issue under review is whether the Marketplace properly issued a notice of eligibility determination for you, and your spouse in a timely manner.

The Marketplace must determine an applicant’s eligibility promptly and without undue delay. The Marketplace must then provide a timely written notice to an applicant of any eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan or insurance affordability programs through the Marketplace.

On November 21, 2014 the income information in your application was updated to state that your spouse’s expected yearly income was \$15,684.00 and your son’s expected yearly income was \$7,836.00. Based on this information, on November 22, 2014 the Marketplace issued a notice that stated you, your

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spouse, and your son might be eligible for health insurance through the Marketplace but more information was needed to make a determination.

You testified that you mailed in updated documentation to the Marketplace at the beginning of December. However, there is no indication that that documentation was ever received by or acted upon by the Marketplace.

On January 12, 2015 the Marketplace reran your application for health insurance again. Based on that application, on January 13, 2015 the Marketplace issued a notice that stated you, your spouse, and your son might be eligible for health insurance through the Marketplace but more information was needed to make a determination.

Also on January 12, 2015 the Marketplace received your income documentation via fax. The documentation included a letter from you stating that you currently have no income, a letter from the Social Security Administration that states your spouse's new monthly benefit amount is \$1,329.00, and a letter from the Social Security Administration that states your son's new monthly benefit amount is \$664.00. This documentation was uploaded to your Marketplace account on January 15, 2015. You further testified that on January 12, 2015 you spoke to a representative from the Marketplace and explained your household's complicated income situation. Specifically, you explained that you and your husband work as [REDACTED] and you could not provide accurate documentation that shows the amount of income you both anticipate earning.

On January 16, 2015 the Marketplace issued a notice that stated you were previously notified that additional information was required to confirm your eligibility. The notice further stated that you had submitted documentation but the documentation appeared to be insufficient to resolve the request.

The record as it is currently established supports that after each application the Marketplace received from you they responded with a notice dated the next day explaining your application contained insufficient information to determine you, your son, and your husband's eligibility. When you submitted income documentation to the Marketplace on January 12, 2015 the Marketplace also properly responded within four days informing you that the documentation was insufficient. Therefore, the Marketplaces responded to your applications in a timely manner.

The second issue under review is whether the Marketplace properly determined that you and your spouse's eligibility and enrollment properly began on April 1, 2015.

On November 5, 2014, the Marketplace issued a notice that it was time to renew your health insurance coverage for 2015. That notice stated that you and your husband were re-enrolled in your current health plan with Excellus BlueCross

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Blue Shield Platinum for another year and no further action was required. It also stated that you and your husband were eligible to receive up to \$260.81 in APTC per month. The start date of enrollment for you and your spouse was January 1, 2015.

However, before this determination could be implemented the income information in your account was changed multiple times. As discussed above, these changes resulted in the Marketplace needing more information to confirm your household's eligibility.

On February 24, 2015 the income information in your application was updated to state that your expected yearly income was \$1,620.00, your spouse's expected yearly income was \$20,268.00, and your son's expected yearly income was \$7,968.00. These amounts are not supported by the documentation you provided to the Marketplace on January 12, 2015. However, you testified that the income information contained in your February 24, 2015 application to the Marketplace was a ballpark figure. On February 25, 2015 the Marketplace issued an eligibility determination notice based on your February 24, 2015 application that stated you and your husband were eligible to receive up to \$657.00 per month in APTC and cost-sharing reductions if you enrolled into a silver level plan. This eligibility was effective April 1, 2015. Also on February 25, 2015 the Marketplace issued a notice to confirm that you and your husband were enrolled in Silver Standard and that your coverage could begin as early as April 1, 2015 if you paid your first month's premium.

When an individual changes information in their application after the 15th of any month, the Marketplace must make the redetermination that results from the change effective the first day of the second following month. Since your completed application was not received by the Marketplace until February 24, 2015, the Marketplace properly began your coverage as of April 1, 2015.

Therefore, the Marketplace's February 25, 2015 eligibility determination is AFFIRMED because it properly began your eligibility for APTC on April 1, 2015. The February 25, 2015 enrollment confirmation notice that stated you and your spouse's coverage could begin as early as April 1, 2015 if you pay your first month's premium is also AFFIRMED.

The final issue under review is whether the Marketplace properly determined that your child's eligibility and enrollment in Child Health Plus was not effective as of January 1, 2015.

On February 6, 2014 the Marketplace prepared a preliminary eligibility determination that stated in part that your son was eligible to enroll in Child Health Plus with a \$15.00 per month premium effective April 1, 2014. On July 1, 2014 the Marketplace issued an eligibility determination notice confirming that

your son remained eligible to enroll in Child Health Plus. That eligibility determination has not been appealed and is not under review here.

On November 5, 2014, the Marketplace issued a notice that it was time to renew your household's health insurance coverage for 2015. That notice stated that your son was re-enrolled into his current health plan with Excellus BCBS Child Health Plus for another year for a cost of \$45.00 per month.

Since the period of your child's Child Health Plus eligibility began on April 1, 2014, it should continue for a full twelve months until March 31, 2015, unless an event occurred to disqualify him from Child Health Plus eligibility. A disqualifying event includes when a child has become eligible for Medicaid.

Your son is in a three-person household. Your application indicates that you plan on filing your tax return as married filing jointly with your spouse and you will claim your son as a dependent on that tax return.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Therefore, if the household income for a household of three was at or below \$30,477.00 your son may be eligible for Medicaid.

As noted above, income information in your account was changed multiple times after the November 5, 2014 renewal notice was issued. Since the record indicates that the income you reported in your application fell below the Medicaid threshold, it was proper for the Marketplace to disenroll your son from Child Health Plus and request income documentation to confirm his eligibility.

Therefore, the February 25, 2015 notice that stating that your son might be eligible for health insurance through the Marketplace but more information was needed to make a determination is **AFFIRMED**.

Decision

The Marketplace issued you and your spouse notices in a timely manner.

The February 25, 2015 eligibility determination notice for you and your spouse is **AFFIRMED**.

The February 25, 2015 enrollment confirmation notice for you and your spouse is **AFFIRMED**.

The February 25, 2015 notice requesting more information to determine your son's eligibility is AFFIRMED.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

You, and your spouse were not eligible for enrollment in a qualified health plan effective January 1, 2015.

Your son was not eligible for enrollment in a Child Health Plus plan effective January 1, 2015.

This decision has no effect on any determination notices that were issued after February 25, 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.

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):

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- By fax: 1-855-900-5557

Summary

The Marketplace issued you and your spouse notices in a timely manner.

The February 25, 2015 eligibility determination notice for you and your spouse is **AFFIRMED**.

The February 25, 2015 enrollment confirmation notice for you and your spouse is **AFFIRMED**.

The February 25, 2015 notice requesting more information to determine your son's eligibility is **AFFIRMED**.

You, and your spouse were not eligible for enrollment in a qualified health plan effective January 1, 2015.

Your son was not eligible for enrollment in a Child Health Plus plan effective January 1, 2015.

This decision has no effect on any determination notices that were issued after February 25, 2015.

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:

