



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

Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002440

[REDACTED]

Dear [REDACTED],

On May 21, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 30, 2015 enrollment confirmation 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).

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Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002440



Issue

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

Was your child's Medicaid managed care plan enrollment with Healthfirst properly made effective March 1, 2015?

Procedural History

On August 2, 5, and 6, 2014, the Marketplace issued notices of eligibility determination. They stated that your child was presumptively eligible to enroll in Child Health Plus for 60 days and requested additional income information by October 6, 2014 to confirm your child's eligibility. The notices further stated that if you did not submit the requested documentation, you might lose the financial help you get with your health insurance and your health insurance could be terminated. These determinations were based on an expected household income of \$44,230.00.

Also on August 6, 2014, the Marketplace issued a notice confirming your child's Child Health Plus enrollment with HealthPlus, an Amerigroup Company. The notice further stated that, if you paid the first month's premium, his coverage could start as early as September 1, 2014.

On November 6, 2014, the Marketplace issued a notice that stated it was time for you to renew your health insurance coverage for 2015. The notice stated that, based on information from federal and state sources, a decision could not be made about whether or not your child qualified for financial help paying for his health insurance. The notice further requested that you update the information in

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your NY State of Health account by December 15, 2014 or the financial assistance your child was receiving might end.

Your account was not updated by December 15, 2014.

On December 22, 2014 the Marketplace issued a notice of eligibility redetermination stating that your child was not eligible for Medicaid or Child Health plus because you had not responded to the renewal notice and had not completed your renewal within the required timeframe.

On December 28, 2014, the Marketplace issued a disenrollment notice stating that your child's coverage with HealthPlus, an Amerigroup Company would end effective December 31, 2014 because he was no longer eligible to enroll in health insurance through New York State of Health.

On January 9, 2015 you updated your account.

On January 13, 2015, the Marketplace issued a notice stating that more information was needed to determine your son's eligibility.

On January 14, 2015, supporting income documentation for yourself and your spouse was uploaded to your Marketplace account.

On January 16, 2015, the Marketplace issued a notice of eligibility redetermination stating that your child was eligible for Medicaid effective January 1, 2015. This determination was based on an expected household income of \$30,000.00.

Also on January 16, 2015, the Marketplace issued a notice confirming your child's Medicaid managed care (MMC) plan enrollment with HealthPlus, an Amerigroup Company, effective February 1, 2015.

On January 30, 2015, the Marketplace issued a cancellation notice stating that your request to cancel your child's insurance coverage with HealthPlus, an Amerigroup Company was received on January 29, 2015. The notice further stated that your child will not have coverage with HealthPlus, an Amerigroup Company.

Also on January 30, 2015, the Marketplace issued a notice of eligibility redetermination stating that your son remained eligible for Medicaid effective January 1, 2015. This redetermination was based on an expected household income of \$35,000.00.

Also on January 30, 2015, the Marketplace issued a notice confirming your child's Medicaid enrollment effective January 1, 2015 and his MMC enrollment with Healthfirst effective March 1, 2015.

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On April 4, 2015, the Marketplace issued a notice of eligibility redetermination stating that your son remained eligible for Medicaid effective April 1, 2015. This determination was based on an expected household income of \$35,000.00.

On April 16, 2015, you spoke with the Marketplace's Account Review Unit and appealed the January 30, 2015 enrollment confirmation notice insofar as it began your child's MMC enrollment with Healthfirst effective March 1, 2015 and not January 1, 2015.

On May 21, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, your spouse also appeared. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

On June 5, 2015, the Marketplace's Appeals Unit received your supporting evidence, which included a copy of the November and December 2014 premium invoices issued by HealthPlus, an Amerigroup Company for January and February 2015 coverage; a notice issued by HealthPlus, an Amerigroup Company refunding your January 2015 premium payment; a notice issued by HealthPlus, an Amerigroup Company in February 2015 confirming your child's enrollment; and a screenshot of your NY State of Health Marketplace account Plan Selection confirmation demonstrating that your child's MMC coverage with HealthPlus, an Amerigroup Company was effective February 1, 2015. These documents were collectively marked as Appellant's Exhibit 1 and incorporated into the record. The record was closed on June 5, 2015.

Findings of Fact

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

- 1) Your child was born on [REDACTED].
- 2) Your account reflects that you elected to receive alerts regarding notices in your account electronically.
- 3) The record reflects that you submitted your initial application for health insurance for your child on July 29, 2014. According to the August 2, 5, and 6, 2014 notices of eligibility determination, your child was presumptively eligible to enroll in Child Health Plus for 60 days. These notices further stated that you must provide income documentation by October 6, 2014 to confirm your child's eligibility. Your supporting income documentation was uploaded to your Marketplace account on January 14, 2015.

- 4) The record reflects that your child was enrolled in Child Health Plus (CHP) with HealthPlus, an Amerigroup Company (HealthPlus) on August 5, 2014. The Marketplace system reflects that his CHP coverage was effective August 1, 2014.
- 5) You testified that you received a notice from HealthPlus around November 2014, which stated that if you would like to continue your son's coverage with the same plan, then you did not need to take any further action. You further testified that you did not receive any notices from the Marketplace regarding your child's health insurance renewal.
- 6) You testified, and provided evidence that you received invoices in November and December 2014 for your child's coverage in January and February 2015, respectively (Appellant's Exhibit 1). You further testified, and provided evidence, that you paid the January and February 2015 premiums for your child's CHP coverage with HealthPlus (Appellant's Exhibit 1). You further testified that you received a new insurance card for your child around this time.
- 7) You testified that you took your child to a doctor appointment in January 2015 and were told that your child did not have health insurance. You further testified that you contacted HealthPlus and were told that your son's coverage was still active. You testified that you then called the Marketplace regarding your child's health insurance and were told that your child did not have active health insurance coverage.
- 8) The record reflects that your account was updated on January 15, 2015. The record further reflects that your child was determined Medicaid eligible effective January 1, 2015.
- 9) The record reflects that your child was enrolled in a Medicaid managed care (MMC) plan with HealthPlus on January 15, 2015 with coverage effective February 1, 2015. The Marketplace system reflects that this enrollment ended on February 1, 2015.
- 10) You testified that you spoke to a Marketplace representative on January 29, 2015 who stated that you must opt out of your child's Medicaid coverage in order to appeal his MMC effective date retroactive to January 1, 2015.
- 11) The Marketplace system reflects that your child's MMC enrollment with HealthPlus was deleted on January 29, 2015 by a Marketplace representative. The record further reflects that the same Marketplace representative enrolled your child in a new MMC plan with Healthfirst.

- 12) The record reflects that your child's MMC enrollment with Healthfirst was effective March 1, 2015.
- 13) You testified that you did not receive any communications, either written or electronic, from the Marketplace until February 2015.
- 14) You are requesting reinstatement of your child's health insurance coverage in either his MMC plan or his CHP plan for the months of January and February 2015.

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 projected eligibility determination for the following year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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

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months after becoming eligible for such medical assistance (New York Public Health Law (PHL) § 2511(2)(b) and (3)).

Presumptive Child Health Plus Eligibility

A child under the age of 19 is presumed eligible for CHP and temporarily enrolled for coverage if, on the basis of preliminary information, that child's household income does not exceed the qualifying income level (PHL § 2511(2)(g)(i)). This temporary enrollment period continues until either an eligibility determination is made, or two months has passed from the first day the temporarily enrollment begins, whichever occurs first (*id.*). However, a temporary enrollment period may be extended if an eligibility determination is not made within the two-month period through no fault of the applicant (*id.*).

Incomplete Applications

If an individual submits an application that does not include sufficient information for the Exchange to conduct an eligibility determination for enrollment in a qualified health plan or other insurance affordability programs, the Exchange must provide notice to the applicant requesting the specified missing information and instructions on how to provide the missing information (45 CFR § 155.310(k)).

Verification Process

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)).

Medicaid for Children under one year old

Individuals are eligible for enrollment in Medicaid through the Marketplace when they meet the nonfinancial criteria and have a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

Medicaid is available to children under one year of age who have a modified adjusted gross income at or below 223% of the federal poverty Level (FPL) for the applicable family size (see 42 CFR § 435.118(c); NY Department of Health Administrative Directive 13ADM-03).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Legal Analysis

The only issue is whether the Marketplace properly determined that your child's Medicaid managed care (MMC) plan enrollment with Healthfirst was effective March 1, 2015.

According to the August 2, 5 and 6, 2014 notices of eligibility determination, your child was presumptively eligible to enroll in Child Health Plus (CHP) for 60 days. However, in order for your child's eligibility to be finalized, the Marketplace directed you to submit income documentation by October 6, 2014 to confirm your child's eligibility.

Presumptive CHP eligibility is a means of immediately providing CHP coverage to children under the age of 19. If the child is found to be presumptively eligible for CHP, they are provided CHP care and services for a limited period of time during which a full determination is performed.

The presumptive eligibility period begins on the day that the determination is made. The presumptive period ends either: (1) the date the Marketplace makes a determination of eligibility based on an application; or (2) two months from the date the presumptive eligibility began if an eligibility determination has not been made.

You did not submit the requested documentation by October 6, 2014, so the Marketplace properly disenrolled your child from CHP coverage at the end of his 60 day presumptive eligibility period.

On November 6, 2014, the Marketplace issued a notice of eligibility redetermination stating that based on information from federal and state sources, the Marketplace could not make a decision about whether or not your child qualified for financial help paying for his coverage for the upcoming year. You were asked to update the information in your NY State of Health account by December 15, 2014 or the financial help your child was receiving might end.

Since your account was not modified until January 14, 2015 and the requested income documentation was not available, the Marketplace was required to issue an eligibility determination based on the existing information in your Marketplace account. Therefore, the Marketplace correctly issued a notice of eligibility determination stating that your child was not eligible for either CHP or Medicaid because you had not responded to the renewal notice and did not complete your child's renewal within the required timeframe.

On January 14, 2015, your income verification documentation was uploaded to your Marketplace account. Based on that income documentation, the Marketplace issued a notice of eligibility determination on January 16, 2015 stating that your child was eligible for Medicaid effective [REDACTED].

However, you testified and the record reflects that you elected to receive your notices from the Marketplace via electronic mail. You testified that you did not receive any notices from the Marketplace regarding your child's CHP enrollment or requests to provide income documentation prior to your child's CHP disenrollment.

You also provided evidence that HealthPlus received and cashed your payments for your child's premiums for the months of January and February 2015. It is reasonable to infer that you were not aware that the information and updates to your account were needed to ensure your child's coverage continued uninterrupted into 2015.

Since your child was determined eligible for Medicaid effective [REDACTED], and it is reasonable to infer that your child would have been determined eligible for Medicaid based on your income documentation had it been submitted to the Marketplace within the required timeframe, the January 30, 2015 enrollment confirmation notice is MODIFIED to state that your child's MMC enrollment with Healthfirst is effective January 1, 2015.

Decision

The January 30, 2015 enrollment confirmation notice is MODIFIED to state that your child's Medicaid managed care (MMC) plan enrollment with Healthfirst is effective January 1, 2015.

Effective Date of this Decision: October 10, 2015

How this Decision Affects Your Eligibility

Your child is enrolled in Healthfirst effective January 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.

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 January 30, 2015 enrollment confirmation notice is MODIFIED to state that your child's Medicaid managed care (MMC) plan enrollment with Healthfirst is effective January 1, 2015.

Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]