



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

Notice of Decision

Decision Date: June 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002472

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 5, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 18, 2015 eligibility determination and April 18, 2015 enrollment 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).

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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Issue

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

Did the Marketplace properly determine that your children's Child Health Plus enrollment would be effective no earlier than June 1, 2015?

Procedural History

On December 31, 2013, the Marketplace issued a notice confirming that you chose to receive all information from New York State of Health electronically.

Your children were enrolled in a Child Health Plus (CHP) plan, effective April 1, 2014.

On February 12, 2015, the Marketplace issued a notice that stated it was time to renew your children's health insurance coverage. It further stated that your children still qualified for coverage with CHP with a \$9.00 monthly premium, but that they could not be enrolled in the same health plan. The notice stated that you needed to select a different health plan if you wanted coverage in 2015, and that for the new plan to be effective April 1, 2015, you would have to select a plan between February 16, 2015 and March 15, 2015.

On March 17, 2015, the Marketplace issued a disenrollment notice, which stated that your children's insurance with your CHP plan was terminated and would end effective March 31, 2015.

On April 17, 2015, the information in your Marketplace account was updated and your children were enrolled in CHP with Fidelis Care effective June 1, 2015.

Also on April 17, 2015, you spoke with the Marketplace's Account Review Unit and requested an expedited appeal regarding the effective date of your children's CHP enrollment insofar as it began June 1, 2015, and not April 1, 2015.

On April 18, 2015, the Marketplace issued a notice confirming your children's CHP enrollment with Fidelis Care as of April 17, 2015. The notice further stated that, if you paid the first month's premium, your children's coverage could start as early as June 1, 2015.

On April 23, 2015, the Marketplace received evidence supporting your request for an expedited appeal, which included a letter written by your son's doctor confirming his medical need, and a letter written by your daughter's doctor confirming her medical need.

On May 5, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you waived your right to formal notice and proceeded with the hearing. 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) The record reflects that you elected to receive all information from New York State of Health electronically, as of December 31, 2013.
- 2) According to the Marketplace's system, your children were enrolled in a Child Health Plus (CHP) plan effective April 1, 2014 to March 31, 2015.
- 3) You testified that you were not made aware that your children's health insurance coverage was terminated effective March 31, 2015. You further testified that you became aware that your children were no longer insured when you received a refund of your children's CHP premium in April 2015. You testified that you called the insurance provider upon receiving the refund, and were told at that time that your children's insurance coverage was terminated.
- 4) You testified that you did not receive any email alerts or electronic notifications that you had notices awaiting review. You further testified that you did not receive any electronic communications or notices via regular mail that it was time to renew your children's health insurance.

- 5) The record reflects that your children were enrolled in a new CHP plan on April 17, 2015.
- 6) The Marketplace's system reflects that your children's CHP coverage with the new plan would begin June 1, 2015.
- 7) You testified and provided evidence that your children have multiple medical conditions that require monthly treatments and medications (Appellant's Exhibit 1, May 5, 2015). You further testified that you incurred medical bills during April 2015 and you expect to incur medical bills during May 2015 for necessary treatments for your children.
- 8) You requested your children's CHP coverage be retroactively effective April 1, 2015.

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

Applicable Law and Regulations

Child Health Plus

Generally, a child who is eligible for Child Health Plus may only have his or her financial eligibility redetermined once every 12 months, and no more frequently than once every 12 months (42 CFR § 457.343, 42 CFR § 435.916(a)).

Eligibility rules for Child Health Plus are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

In order for coverage to begin the first day of the following month, the application and the request for enrollment must be completed and forwarded to the carrier before the 20th of the month. If the application and request for enrollment are completed after the 20th of the month, coverage begins on the first day of the second following month (see NYSDOH 2008-2012 Contract and Plan Manual - Child Health Plus Program, § 6.1).

In order for the request for enrollment to get to the carrier in time for coverage to begin the first day of the following month, the request to New York State of Health for enrollment must be completed on or before the 15th of the month. If the application and request for enrollment are completed after the 15th of the month, coverage begins on the first day of the second following month (45 CFR § 155.330(f)(1)).

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Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The only issue is whether the Marketplace properly determined that your children's enrollment in their Child Health Plus (CHP) plan was effective no earlier than June 1, 2015.

The Marketplace must redetermine a child's eligibility for CHP once every 12 months.

On February 12, 2015, the Marketplace issued a notice that it was time to renew your children's health insurance. It stated that your children remained qualified for CHP, but they could not be enrolled in the same health plan. The notice further stated that you would have to select a different health plan if you wanted coverage in 2015. For the new plan to be effective April 1, 2015, you would have had to select a plan between February 16, 2015 and March 15, 2015.

The Marketplace did not receive your new plan selection by March 15, 2015.

Since a new CHP plan selection was not made by March 15, 2015, and your children were unable to remain enrolled in the same health plan, the Marketplace properly terminated your children's CHP enrollment with your former plan effective March 31, 2015.

In order for CHP coverage to begin the first day of the following month, the request for CHP enrollment to the Marketplace must be completed before the 15th of the month, in order for the Marketplace to forward the information to the carrier before the 20th of the month.

The record reflects that your children were enrolled in CHP coverage with Fidelis Care on April 17, 2015. Since the enrollment request was not made before the 15th of the month, the Marketplace properly began your children's coverage on June 1, 2015.

However, you credibly testified that you did not receive any renewal notices or email alerts from the Marketplace. You further testified that you were not aware that your children's coverage was terminated effective March 31, 2015.

If an applicant chooses to receive notices and information from the Marketplace electronically, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to his account.

Since the Marketplace failed to provide you electronic communications alerting you that your children's CHP coverage was terminated, the April 18, 2015 eligibility determination is MODIFIED to reflect that the enrollment should start April 1, 2015. Your case RETURNED to the Marketplace to retroactively apply your children's CHP eligibility and enrollment with your new plan effective April 1, 2015.

Decision

The Marketplace's April 18, 2015 enrollment confirmation notice is MODIFIED to reflect that the enrollment should start April 1, 2015.

Your case is RETURNED to the Marketplace to retroactively apply your children's Child Health Plus eligibility and enrollment with your new plan effective April 1, 2015.

Effective Date of this Decision: June 25, 2015

How this Decision Affects Your Eligibility

Your children's Child Health Plus enrollment with Fidelis Care is retroactively effective April 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

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace's April 18, 2015 enrollment confirmation notice is MODIFIED to reflect that the enrollment should start April 1, 2015.

Your case is RETURNED to the Marketplace to retroactively apply your children's Child Health Plus eligibility and enrollment with Fidelis Care effective April 1, 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:

[REDACTED]
[REDACTED]
[REDACTED]