



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

Notice of Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002502

[REDACTED]

Dear [REDACTED],

On July 31, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 18, 2015 eligibility redetermination regarding your child.

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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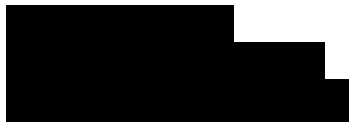


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: October 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002502



Issue

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

Did the Marketplace properly disenroll your child from his Child Health Plus plan effective January 31, 2015?

Procedural History

On July 1, 2014, based on your May 27, 2014 application for health insurance, the Marketplace issued a notice of eligibility redetermination that your child remained eligible to enroll in Child Health Plus (CHP) and was presumptively eligible for 60 days until a full eligibility determination could be made. The notice stated that additional information regarding income was required by September 1, 2014 and that, if the documentation was not submitted within 90 days, your child may be determined unqualified for health insurance.

On July 2, 2014, your Marketplace application was modified and on July 3, 2014, the Marketplace issued another notice of eligibility redetermination that, based on your household's reported income of \$61,140.00, your child remained eligible for CHP and to receive financial assistance. The notice stated that your child's health insurance coverage will begin shortly after you had selected a health plan and paid the first premium payment.

On January 8, 2015, you updated your Marketplace application.

On January 9, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your child was conditionally eligible for CHP, effective February

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1, 2015. The notice stated that additional information regarding income needed to be submitted by March 11, 2015.

That same day, the Marketplace issued an enrollment notice that, in relevant part, confirmed your child's enrollment in Emblem Health, a CHP plan, with a monthly premium responsibility of \$30.00. The notice further stated that coverage could start as early as January 1, 2014 after you paid the first month's premium.

On January 15, 2015, the Marketplace issued another notice of eligibility redetermination with the same findings as the January 9, 2015 notice, but with an income documentation deadline of March 17, 2015.

That same day, the Marketplace issued another enrollment notice that, in relevant part, confirmed the same enrollment information regarding your child as the January 9, 2015 enrollment notice.

On January 21, 2015, you uploaded income documents to your Marketplace account.

On January 22, 2015, the Marketplace issued a letter addressed to "[REDACTED]" that informed you it had previously requested additional information regarding your husband's proof of income and needed more information to resolve certain inconsistencies. In the top paragraph on the Document List, you are requested to submit documentation within the required timeframe; however, the notice did not provide a required timeframe for you to submit such proof.

A copy of this notice was uploaded to your Marketplace account on April 15, 2015, stamped "RETURN MAIL FEB 11 2015."

On April 15, 2015, the Marketplace issued a notice of disenrollment that, based on your April 14, 2015 request, your child's insurance coverage with Emblem Health will end effective April 30, 2015.

That same day, the Marketplace issued an eligibility determination notice that, in relevant part, stated your child was conditionally eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective May 1, 2015. The notice further stated that additional information/documentation regarding proof of income is required before June 13, 2015.

Also that same day, the Marketplace issued an enrollment notice that, in part, confirmed your child's enrollment in Emblem Health with a \$30.00 monthly premium. The notice also stated that coverage would be effective shortly after the first premium payment was received by the health plan.

On April 18, 2015, the Marketplace issued another eligibility redetermination notice that your child was now eligible to enroll in Child Health Plus, with a \$30.00 monthly premium, effective June 1, 2015.

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On April 20, 2015, the Marketplace issued a notice confirming your plan selection of Emblem Health as your child's Child Health Plus plan. The notice confirmed that the total monthly premium was \$30.00 and his coverage could start as early as May 1, 2015, if you pay your first month premium.

That same day, you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your coverage under your Child Health Plus plan on May 1, 2015 instead of his coverage being continued without interruption.

On July 31, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you to submit copies of the cancellation letter from Emblem Health and your premium payment history.

That same day, the Appeals Unit received a three page fax from you. It consisted of (1) A cover page; (2) A copy of an April 7, 2015 cancellation letter from Emblem Health; and (3) A copy of Emblem's health billing invoices and payment history regarding your child's Child Health Plus premiums. This three page fax was made part of the record as "Appellant's Exhibit C."

Since the requested documents were received on July 31, 2015, the record was closed that same day.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are appealing only your child's eligibility and enrollment in a Child Health Plus (CHP) plan.
- 2) You testified that you enrolled your child in Emblem Health, a CHP, through the Marketplace with coverage effective July 1, 2014.
- 3) You testified that, on your May 27, 2014 application, you intentionally over-reported your spouse's income from self-employment to ensure that your household's eligibility for financial assistance would be underestimated so as to avoid any possibility of tax liabilities or premium adjustments for that year. You testified that you did this because it is difficult to project your household's yearly earnings.
- 4) You testified that you paid your premiums timely and without interruption as of that date and provided a copy of the Emblem Health billing invoice and payment history that corroborated your testimony (Appellant's Exhibit C, p. 3).

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- 5) According to your Marketplace account and your testimony, on January 21, 2015, you uploaded Profit and Loss Statements from your spouse's business for the months of October, November, and December 2014 in an effort to comply with the January 9, 2015 and January 15, 2015 notices requesting additional information to prove income (Appellant's Exhibit A).
- 6) According to your Marketplace account, on January 22, 2015, the Marketplace reviewed those Profit and Loss Statements and determined them to be "Invalid Proof of Income. Self-employed. We need one of the following: 1040 and Schedule C, or 3 months of detailed/itemized business earnings and expenses from accounting software. Letter sent. [REDACTED]."
- 7) You testified and provided documentary proof that Emblem Health sent you a notice, dated April 7, 2015, informing you that it "will be discontinuing coverage in Emblem Health Child Health Plus (CHPlus) program for [your child] on 2/1/2015." The notice further stated that, "[u]nfortunately we are required to disenroll your child(ren) because the NY State of Health Marketplace did not receive the necessary information to renew your child(ren)'s CHPlus coverage by the deadline date. The NY State of Health should have previously sent you a notice informing you that your child(ren)'s renewal was not complete." (Appellant's Exhibit C, p. 2).
- 8) You testified that, upon receiving the April 7, 2015 notice from Emblem Health, you contacted the Marketplace and were told you needed to disenroll your child from his current CHP plan in order for the Marketplace to re-enroll him for May 1, 2015 and that it would then conduct an override to make his coverage retroactive to April 1, 2015.
- 9) You testified that you agreed to disenroll your child and it triggered a redetermination of eligibility and enrollment in Emblem Health, both with an effective date of May 1, 2015.
- 10) According to your Marketplace account, on April 14, 2015, you uploaded copies of your and your spouse's 2014 Schedule Cs from your 2014 Form 1040, which the Marketplace verified as being valid on April 17, 2015 (Appellant's Exhibit B).
- 11) You testified that you believe your child's coverage should not have been cancelled as of February 1, 2015 and should have continued uninterrupted during that month and March and April 2015.
- 12) You testified that your child was seen by his health care providers during these months because he has a medical condition that requires him to be monitored on a regular basis.

13) According to your payment history and your testimony, you paid the monthly premiums for February, March, and April 2015 and now have a credit on your account (Appellant's Exhibit C. p. 3).

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

Applicable Law and Regulations

Marketplace Eligibility Determinations

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 FR § 435.1200(b)(3)(iii)).

The Marketplace is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements.

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)).

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

In New York State, Child Health Plus benefits are furnished "By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month" (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

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 12 months (42 CFR § 435.916(a)).

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Legal Analysis

The issue under review is whether the Marketplace properly determined that your child should be disenrolled from his Child Health Plus (CHP) plan effective January 31, 2015.

Your child was first found to be conditionally eligible for CHP through the Marketplace effective July 1, 2014, based on household income of \$61,140.00 for a three-person household. His eligibility was conditional upon production of proof of your household income.

According to the record, the Marketplace initially took no steps to disenroll your child from his CHP plan as of the first deadline of September 1, 2014 for you to provide proof of income.

It was at the time that you updated your Marketplace application on January 8, 2015, that the Marketplace again requested proof of income. On January 21, 2015, you provided proof of household income in the form of your spouse's Profit and Loss Statements for the past three months, which were October, November, and December 2014. These statements contain detailed information about income, profit, expenses, and net income or loss for each of these months.

The record reflects that on January 22, 2015, the Marketplace invalidated these statements as proof of income on the basis that self-employed individuals have to provide Form 1040 and Schedule C, or 3 months of detailed/itemized business earnings and expenses from accounting software. However, according to the Marketplace's approved list of documents for self-employment income, a self-employed individual can submit "records of earnings and expenses" for a period of at least three months. Since you complied with the Marketplace's request for income documentation in providing Profit and Loss Statements for the months of October 2014, November 2014, and December 2014 before the March 17, 2015 deadline, the Marketplace erred in invalidating the documents.

To compound matters, the request for additional documents that the Marketplace sent on January 22, 2015 was sent to a wrong address of "[REDACTED]" and not to your address of record, which is "[REDACTED]" and, therefore, the mail was returned to the Marketplace. As such, you did not receive proper notice that the documents you provided were not satisfactory and other documents to prove household income were needed.

In addition, the Marketplace did not timely issue a cancellation or disenrollment notice that stated your child's coverage with his Child Health Plus plan would terminate on January 31, 2015 and, therefore, did not provide you with proper notice of termination of coverage. The record reflects that you only got notice of cancellation when you received Emblem Health's notice dated April 7, 2015, which stated the cancellation of his CHPlus plan was effective "2/1/2015."

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Since your child's CHP coverage was conditioned upon proof of income documents and you did not receive the January 22, 2015 request for additional income documents due to it being mailed to the wrong address, and further did not receive a disenrollment notice, the Marketplace erred in having Emblem Health disenroll your child from his CHP plan effective February 1, 2015. For these reasons, your case is being RETURNED to the Marketplace to have your child's CHP plan restored effective February 1, 2015.

Decision

Your case is being RETURNED to the Marketplace to have your child's CHP plan restored effective February 1, 2015.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility for Child Health Plus.

The Marketplace is being directed to restore your child's CHP coverage with Emblem Health effective February 1, 2015.

You will be responsible for the premiums due for the months of February, March, and April 2015 and Emblem Health and you can work out using the credits toward those premiums, if you still have credit.

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

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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

Your case is being RETURNED to the Marketplace to have your child's CHP plan restored effective February 1, 2015.

This decision does not change your child's eligibility for Child Health Plus.

The Marketplace is being directed to restore your child's CHP coverage with Emblem Health effective February 1, 2015.

You will be responsible for the premiums due for the months of February, March, and April 2015 and Emblem Health and you can work out using the credits toward those premiums, if you still have credit.

Legal Authority

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A Copy of this Decision Has Been Provided To:

