



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002596

[REDACTED]

Dear [REDACTED],

On June 17, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 21, 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 letter.

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

Did the Marketplace properly determine that your son is not eligible for financial assistance or enroll in a qualified health plan at full cost through the Marketplace as of February 17, 2015?

Did the Marketplace properly determine that your son is enrolled in Excellus BCBS and coverage could start as early as April 1, 2015?

Procedural History

On January 31, 2014 the Marketplace issued a notice confirming “that you have chosen to receive all information from New York State of Health electronically.”

On January 7, 2015 the Marketplace issued a notice stating that the NY State of Health did not have enough information from federal and state data sources to determine if your son could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directs you to “update the information on your [Marketplace] account by February 15, 2015 so we can make an appropriate decision. If you miss the deadline, the financial assistance you are getting now may end.”

On February 17, 2015 the Marketplace issued an eligibility determination notice that “[y]ou did not respond to the renewal notice and did not complete your renewal within the required timeframe. As a result, you no longer qualify to receive financial assistance to help pay for your health coverage.”

On February 19, 2015 the Marketplace issued a disenrollment notice that your son’s coverage with Excellus BCBS will end effective February 28, 2015.

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On February 21, 2015 the Marketplace issued an enrollment notice confirming that your son was enrolled in Excellus BCBS. The notice states that “if you pay your first month’s premium, your coverage could start as early as April 1, 2015.

On April 24, 2015, you spoke to the Marketplace Account Review Unit and requested an appeal with respect to your son’s coverage effective date.

On June 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

Findings of Fact

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

- 1) On January 31, 2014 the Marketplace issued a notice confirming that you have chosen to receive all information from NY State of Health electronically.
- 2) The Marketplace issued a January 7, 2015 notice stating that a decision could not be made on whether you qualified to enroll in a qualified health plan and receive financial help paying for health coverage for 2015. The notice directs you to, “please update your NY State of Health account by February 15, 2015.”
- 3) You testified you received an email on February 19, 2015 notifying you that your son would lose his health insurance coverage.
- 4) You testified you contacted the Marketplace on February 20, 2015 to update your son’s account and enrolled your son in Excellus BCBS.
- 5) You testified that a Marketplace representative reassured you that your son’s health coverage would be effective March 1, 2015.
- 6) On February 21, 2015 the Marketplace issued an enrollment notice confirming that your son was enrolled in Excellus BCBS. The notice states that “if you pay your first month’s premium, your coverage could start as early as April 1, 2015.”
- 7) You testified that your son’s health coverage was denied on March 13, 2015 while attempting to refill a prescription.

- 8) You testified you have \$5,000.00 in outstanding medical bills for March 2015 and are seeking to have your son's coverage backdated to March 1, 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 information by which the Marketplace will use to redetermine a qualified individual's eligibility for that 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(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 Effective Date

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)).

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

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- (1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.
- (2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.
- (3) Post notices to the individual's electronic account within 1 business day of notice generation.
- (4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.
- (5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR §435.918).

Legal Analysis

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the 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 (QHP) or insurance affordability programs through the Marketplace.

On January 7, 2015 the Marketplace issued a notice stating that NY State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage you could have for 2015. The notice directed you to return to your account by February 15, 2015 and provide more information.

On February 17, 2015 the Marketplace issued a notice of eligibility determination stating that your son is not eligible to receive financial assistance because you did not complete your renewal within the required timeframe.

On February 19, 2015 the Marketplace issued a disenrollment notice that your son's coverage with Excellus BCBS will end effective February 28, 2015.

On February 21, 2015, the Marketplace issued a notice confirming your enrollment in an Excellus BCBS health plan and could start as early as April 1, 2015.

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On April 24, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of your son's health insurance coverage through Excellus BCBS.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The January 7, 2015 renewal notice was posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive any e-mail notifying you that there were notices available in your Marketplace account until February 19, 2015, and you learned that your son did not have health insurance when you attempted to refill a prescription on March 13, 2015.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding termination of your son's Excellus BCBS health insurance coverage.

Accordingly, the February 17, 2015 eligibility determination notice stating that your son is not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is RESCINDED.

The February 21, 2015 enrollment notice is MODIFIED to state that your son's insurance coverage through Excellus BCBS could start as early as March 1, 2015.

Decision

The February 17, 2015 eligibility determination is RESCINDED.

The February 21, 2015 enrollment notice is MODIFIED to state that your son's insurance coverage through Excellus BCBS could start as early as March 1, 2015.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Eligibility

Your son is eligible to enroll in Child Health Plus with a \$60.00 monthly premium effective March 1, 2015.

Your son's enrollment in Excellus BCBS coverage could start as early as March 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:
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Summary

The February 17, 2015 eligibility determination is RESCINDED.

The February 21, 2015 enrollment notice is MODIFIED to state that your son's insurance coverage through Excellus BCBS could start as early as March 1, 2015.

Your son is eligible to enroll in Child Health Plus with a \$60.00 monthly premium effective March 1, 2015.

Your son's enrollment in Excellus BCBS coverage could start as early as March 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:

