



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

Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002608

[REDACTED]

Dear [REDACTED],

On June 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 17, 2014 cancellation notice and December 9, 2014 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: November 18, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002608

[REDACTED]

Issue

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

Did coverage through Child Health Plus for your four oldest children properly begin on January 1, 2015, and not November 1, 2014?

Did your child, [REDACTED] Medicaid coverage properly begin November 1, 2014 and her Medicaid Managed Care plan enrollment properly begin effective January 1, 2014?

Procedural History

On October 3, 2014, the Marketplace received your first application for health insurance for your children, and prepared a preliminary eligibility determination in your case. It stated that your children, [REDACTED] were conditionally eligible for Child Health Plus with a \$15.00 monthly premium each, effective November 1, 2014. This preliminary determination was based on an expected household income of \$81,724.00.

Your Marketplace account indicates that on October 4, 2014, all five of your children were enrolled in Capital District Physicians' Health Plan, Inc., through Child Health Plus, with coverage effective November 1, 2014, based on their conditional eligibility. No written notice was sent regarding this enrollment.

On October 16, 2014, before your children's enrollment in a CHP plan went into effect, the Marketplace received your modified application for health insurance, which included an expected annual household income of \$65,532.00. A

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preliminary eligibility determination was prepared stating that your four older children, [REDACTED], were conditionally eligible for Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2014. The preliminary determination further stated that an eligibility determination could not be made for [REDACTED] because the information you provided did not match the information obtained from State and Federal data sources.

No written notice of eligibility determination was issued with regard to this preliminary determination.

On October 17, 2014, the Marketplace issued a notice stating that your child, [REDACTED] might be eligible for health insurance through New York State of Health but that the income information you provided did not match the information obtained from State and Federal data sources. You were requested to submit income documentation for your household by November 3, 2014.

Also on October 17, 2014, the Marketplace issued a cancellation notice stating that your children's insurance coverage with Capital District Physicians' Health Plan, Inc. was cancelled, effective November 1, 2014, because they were no longer eligible to enroll in their current health plan.

On November 16, 2014, a copy of your business' profit and loss balance sheet for the months of August to October 2014 was uploaded to your Marketplace account as proof of your income.

On November 27, 2014, the Marketplace issued a notice of eligibility determination made on October 16, 2014, stating that your children, [REDACTED], were conditionally eligible to enroll through Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2014. This determination was based on an expected household income of \$65,532.00. Your child [REDACTED] was not referenced in this notice.

Also on November 27, 2014, the Marketplace issued a notice of eligibility determination made on November 18, 2014, stating that your children, [REDACTED], were eligible to enroll through Child Health Plus with a \$9.00 monthly premium, effective January 1, 2015. The notice further stated that your child, [REDACTED] was conditionally eligible for Medicaid, effective November 1, 2014. This determination was based on an expected household income of \$65,532.00.

Also on November 27, 2014, the Marketplace issued a notice of eligibility determination made on November 20, 2014, stating that your children, [REDACTED], were eligible to enroll through Child Health Plus with a \$9.00 monthly premium, effective January 1, 2015. The notice further stated that your child, [REDACTED] remained conditionally eligible for Medicaid, effective November

1, 2014. This determination was based on an expected household income of \$65,532.00.

On December 9, 2014, the Marketplace issued a notice confirming that enrollment with CDPHP for your children, [REDACTED] could begin as early as January 1, 2015, if the first month's premium was paid. The notice further confirmed that coverage through Medicaid for [REDACTED] was effective November 1, 2014 and her Medicaid Managed Care Plan enrollment with CDPHP was effective January 1, 2015.

On April 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed the effective start date of your children's Child Health Plus coverage insofar as it began on January 1, 2015 and not November 1, 2014. You also appealed the effective start date of the Medicaid Managed Care plan enrollment for your child, [REDACTED] insofar as it began on January 1, 2015, and not October 1, 2014.

On June 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for up to 15 days to provide you an opportunity to submit supporting evidence.

Your supporting evidence was not received by the Marketplace's Appeals Unit by June 25, 2015, and the record was closed.

Findings of Fact

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

- 1) You expect to file your federal income tax return jointly with your spouse, and claim your five children as dependents.
- 2) Your youngest child, [REDACTED] was born on September 29, 2014.
- 3) The record reflects that your children were initially enrolled in Capital District Physicians' Health Plan, Inc. through Child Health Plus (CHP) on October 3, 2014. This coverage was to become effective November 1, 2014.
- 4) You testified that you paid your children's CHP premium for the month of November 2014 and received insurance cards from Capital District Physicians' Health Plan, Inc. indicating a November 1, 2014 coverage start date.

- 5) According to the Marketplace's system, your application was updated with the assistance of a Marketplace representative (Identification Number [REDACTED] on October 16, 2014. The record reflects that your income information was changed to indicate a household income of \$65,532.00.
- 6) According to the Marketplace's system, your children's CHP enrollment with Capital District Physicians' Health Plan, Inc. was deleted on October 16, 2014. The system further reflects that this event was initiated by [REDACTED]. You testified that you were not aware that your children's CHP enrollment had been deleted.
- 7) You testified that you took your children to the doctor in November 2014 but were not aware that their coverage was terminated until you received medical bills for the dates of service.
- 8) The Marketplace's system reflects that multiple complaints have been filed regarding the improper termination of your children's CHP coverage. According to the notes associated with Complaint Number [REDACTED] your "children were dis-enrolled from CDPHP due to an error made by NYSOH."
- 9) You testified that [REDACTED] was covered by your health insurance plan for the month of September 2014, which was the month of her birth. You further testified that you incurred medical bills for the month of October 2014.
- 10) The record reflects that [REDACTED] was enrolled in Medicaid coverage as of November 1, 2014. The record further reflects that she was enrolled in a Medicaid Managed Care plan with CDPHP on November 19, 2015, with coverage effective January 1, 2015.
- 11) On November 16, 2014, a copy of your business' profit and loss balance sheet was uploaded to your Marketplace account. This statement reflects a total net income of \$16,222.27 between the months of August and October 2014.
- 12) You testified that you are seeking Medicaid coverage for [REDACTED] to be retroactively effective October 1, 2014, and CHP coverage for your older children, [REDACTED] to be effective November 1, 2014.

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

Applicable Law and Regulations

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

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)).

“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: Sections 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

A child who has health care coverage under insurance or is eligible for Medicaid is not eligible for coverage through Child Health Plus (see NY Public Health Law § 2511(2)(b), (c)).

Medicaid for Infants

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).

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 dates of your child’s applications, that was the 2014 FPL, which is \$36,030.00 for a seven-person household (79 Fed. Reg. 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

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)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time she received the services if she had applied. (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

A child shall be presumed to be eligible for medical assistance under Medicaid based on preliminary information that the child’s household income is within the program’s limits (N.Y. Soc. Serv. Law § 364-i(4)).

Incomplete Applications

If an applicant submits an incomplete application or there is not sufficient information for the Marketplace to make an eligibility determination, then the Marketplace must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

Legal Analysis

The first issue under review is when Child Health Plus (CHP) coverage for your children, [REDACTED], should have properly started.

The Marketplace received your application on October 3, 2014 and prepared a preliminary eligibility determination on the same date stating that your children, [REDACTED] were conditionally eligible to enroll in CHP, effective November 1, 2014. This preliminary determination was based on an expected household income of \$81,724.00.

The record reflects that, on October 3, 2014, your five children were enrolled in CHP coverage with Capital District Physicians' Health Plan, Inc. with coverage effective November 1, 2014.

You testified that you paid the premium for your children's health insurance plan for November 2014 coverage.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received between the sixteenth day of the month and the end of the month, benefits are provided on "the first day of the subsequent month." Since your children's application was filed on October 3, 2014, their plan properly should have taken effect on November 1, 2014.

However, the record reflects that your income information was updated by a Marketplace Representative (Identification Number [REDACTED]) on October 16, 2014, before the enrollment became effective, to reflect an expected household income of \$65,532.00. The record further reflects that the same Marketplace representative deleted your children's CHP enrollment on that date. This termination was reflected in the October 17, 2014 cancellation notice issued by the Marketplace.

You credibly testified that you were not made aware that your children's CHP coverage was terminated on that date. The record further reflects that Marketplace error caused your children's CHP disenrollment.

Because your children's CHP enrollment was to become effective November 1, 2014, because even after the October 16, 2014 modification to your application your four oldest children continued to be eligible to be enrolled in their Child Health Plus health plan, and because a Marketplace error caused your children's improper disenrollment, the October 17, 2014 cancellation notice is **RESCINDED**; your four oldest children were properly enrolled in CHP coverage effective November 1, 2014, and that coverage should have continued uninterrupted.

Since your children's CHP coverage with CDPHP would have continued if not for Marketplace error, the December 9, 2014 enrollment confirmation notice is MODIFIED to state that Child Health Plus enrollment with CDPHP for your four older children, [REDACTED], began on November 1, 2014, if the first month's premium was paid, and continued thereafter without interruption.

The second issue under review is when Medicaid coverage and Medicaid Managed Care (MMC) plan enrollment for your youngest child should have started.

On October 16, 2014, the Marketplace received your modified application, which indicated that your youngest child lived in a household of seven people with expected annual household earnings of \$65,532.00.

On October 17, 2014, the Marketplace issued a notice requesting income documentation by November 3, 2014 to confirm [REDACTED] eligibility. Since the Marketplace could not make an eligibility determination based on the information available, and requested further documentation, the application was not considered complete at that time.

However, with a 2014 federal poverty level (FPL) of \$36,030.00 for a seven-person household, the income stated in your October 16, 2014 was 181.88% of the applicable FPL, and the Marketplace was required to find that your youngest child was presumptively eligible for Medicaid at that time.

Since that time, on November 16, 2014, documentation confirming your income was uploaded to your Marketplace account, and the Marketplace was able to issue an eligibility determination on November 27, 2014 that found in pertinent part, that your four oldest children were eligible to enroll in a Child Health Plus plan and that your youngest child was conditionally eligible to enroll in Medicaid. Your youngest daughter's eligibility was conditional upon confirmation of her citizenship status and a Social Security number.

Medicaid is available to children under one year of age who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size.

According to both your October 16, 2014 and November 18, 2014 applications, you expect to file your 2015 federal income tax return jointly with your spouse and claim your five children as dependents, therefore you are a seven-person household. According to the same applications, you attested to a household income of \$65,532.00.

An annual household income of \$65,532.00 is 181.88% of the 2014 FPL for a seven-person household; therefore, your youngest child was correctly determined eligible for Medicaid.

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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. Since your youngest daughter should have been found presumptively eligible for Medicaid at the time of the October 16, 2014 application, her Medicaid coverage should have begun on October 1, 2014.

Additionally, Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

On November 16, 2014, a copy of your business' balance sheet for the months between August and October 2014 was uploaded to your Marketplace account. According to the balance sheet, you had a total net income of \$16,222.27 for the time period stated, or approximately \$5,407.42 per month.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

For October 2014, a household income of \$5,407.42 for the month is 180.07% of the 2014 FPL for a seven-person household; therefore, [REDACTED] would have been Medicaid eligible during the month of October 2014.

Therefore, since [REDACTED] was Medicaid eligible effective October 1, 2014, and she received medical services that would have been covered under Medicaid, your case is RETURNED to the Marketplace to make [REDACTED] Medicaid coverage retroactively effective to October 1, 2014.

With regard to her coverage under an MMC, MMC plan enrollments received after the fifteenth day of the month are effective the first day of the second following month; there is no presumption of eligibility to enroll in an MMC plan.

The record reflects that [REDACTED] was enrolled in an MMC plan with CDPHP on November 19, 2014. Since this enrollment was received by the Marketplace after the fifteenth day of the month, it properly began on January 1, 2015.

Therefore, the December 9, 2014 enrollment confirmation notice is MODIFIED to state that Child Health Plus enrollment with CDPHP for your four older children, [REDACTED], began on November 1, 2014, if the first month's premium was paid, and continued thereafter without interruption, and to reflect that [REDACTED] enrollment in Medicaid fee-for-service was effective October 1, 2014 and her enrollment in her MMC was effective January 1, 2015.

Decision

The October 17, 2014 cancellation notice is RESCINDED.

The December 9, 2014 enrollment confirmation notice is MODIFIED to state that Child Health Plus enrollment with CDPHP for your four older children, [REDACTED], began on November 1, 2014, if the first month's premium was paid, and continued thereafter without interruption, and to reflect that [REDACTED] enrollment in Medicaid fee-for-service was effective October 1, 2014 and her enrollment in her MMC was effective January 1, 2015.

Your case is RETURNED to the Marketplace to facilitate the adjustments to your children's enrollments.

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

Your children, [REDACTED] Child Health Plus coverage with CDPHP is effective November 1, 2014.

Your child, [REDACTED] Medicaid coverage is effective October 1, 2014. Her Medicaid Managed Care plan enrollment remains 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)).

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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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Summary

The October 17, 2014 cancellation notice is RESCINDED.

The December 9, 2014 enrollment confirmation notice is MODIFIED to state that Child Health Plus enrollment with CDPHP for your four older children, [REDACTED] began on November 1, 2014, if the first month's premium was paid, and continued thereafter without interruption, and to reflect that [REDACTED] enrollment in Medicaid fee-for-service was effective October 1, 2014 and her enrollment in her MMC was effective January 1, 2015.

Your case is RETURNED to the Marketplace to facilitate the adjustments to your children's enrollments.

Your children, [REDACTED] Child Health Plus coverage with CDPHP is effective November 1, 2014.

Your child, [REDACTED] Medicaid coverage is effective October 1, 2014. Her Medicaid Managed Care plan enrollment remains effective January 1, 2015.

Legal Authority

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A Copy of this Decision Has Been Provided To:

