



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002633

[REDACTED]

Dear [REDACTED],

On June 25, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 23, and 24, 2015 eligibility determinations.

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 Code of Federal Regulation (CFR) 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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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine that your child was no longer eligible to enroll through Child Health Plus, effective April 30, 2015?

Did the Marketplace properly determine that your child was eligible to enroll through Child Health Plus, effective June 1, 2015?

Procedural History

On February 5, 2015, the Marketplace issued a notice of eligibility determination stating that your oldest child was eligible to enroll through Child Health Plus with a \$30.00 premium per month, effective March 1, 2015. This document was returned to the Marketplace on February 18, 2015 and marked as "Return to Sender/ Attempted – Not Known/ Unable to Forward."

Also on February 5, 2015, the Marketplace issued a notice confirming your child's enrollment in Child Health Plus, with HealthPlus, an Amerigroup Company. The notice further stated that your child's coverage could start as early as January 1, 2015, if the first month's premium is paid. This document was returned to the Marketplace on February 18, 2015 and marked as "Return to Sender/ Attempted – Not Known/ Unable to Forward."

On April 17, 2015, the Marketplace issued a notice of eligibility determination stating that your child is no longer eligible for Child Health Plus because notices sent by the Marketplace to the mailing address you provided were returned to the

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Marketplace as undeliverable. You were requested to update your mailing address so that your child could remain eligible for health coverage through the Marketplace. Your child's eligibility ended effective April 30, 2015.

On April 18, 2015, the Marketplace issued a disenrollment notice stating that your child's enrollment with HealthPlus, an Amerigroup Company will end effective April 30, 2015 because he is no longer eligible to enroll in health insurance through New York State of Health.

On April 23 and 24, 2015, the Marketplace issued notices of eligibility determination stating that your child is eligible to enroll through Child Health Plus with a \$45.00 premium, effective June 1, 2015.

Also on April 23 and 24, 2015, the Marketplace issued notices confirming your child's Child Health Plus enrollment with HealthPlus, an Amerigroup Company. The notice further stated that your child's coverage could start as early as June 1, 2015, if the first month's premium is paid.

On April 28, 2015, you appealed these determinations insofar as they resumed your child's Child Health Plus eligibility on June 1, 2015, and not May 1, 2015.

On June 25, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. 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) You reside with your spouse and two children at:

[REDACTED]

You testified that you have continuously resided at this address with your family.

- 2) You testified that you are only appealing your eldest child's eligibility determination.
- 3) The February 4, 2015 eligibility determination notice and February 5, 2015 enrollment confirmation notice were addressed to:

[REDACTED]

[REDACTED]

The record reflects that these notices were returned to the Marketplace on February 18, 2015 and marked as "Return to Sender/ Attempted – Not Known/ Unable to Forward."

- 4) The April 17, 2015 eligibility determination notice and the April 18, 2015 disenrollment notice were also addressed to:

[REDACTED]

These notices were not returned to the Marketplace. You testified that you received these notices.

- 5) The record reflects that your last name is different than your spouse and children. You testified that you believe that the February 5, 2015 notices may have been improperly returned to the Marketplace by the postal service for this reason.
- 6) You testified that you paid your child's Child Health Plus (CHP) premium for the month of May 2015. You further testified that you have received a credit to your account for this payment.
- 7) You testified that you incurred medical bills for your child during the month of May 2015.
- 8) You are requesting that your child's CHP enrollment with HealthPlus, an Amerigroup Company be reinstated for the month of May 2015.
- 9) There is no evidence in your account that the Marketplace made any effort to contact you after the first notice was returned as undeliverable on December 12, 2014. Had you been called, you would have had the opportunity to monitor your account on-line or over the phone.

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%

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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)).

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)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your child was no longer eligible for Child Health Plus (CHP), effective April 30, 2015.

You testified, and the record reflects that you and your family currently and has continuously resided at:

[REDACTED]

You testified that this address is correct.

According to the February 5, 2015 eligibility determination and enrollment confirmation notices, your address was listed as:

[REDACTED]

These notices were returned to the Marketplace as undeliverable.

However, the April 17, 2015 notice of eligibility determination and the April 18, 2015 disenrollment notice were sent to the same address, and you credibly testified that you received these notices.

Generally, a child's CHP period of eligibility begins on the first day of the month during which a child is eligible child and enrolled and ends 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.

The credible evidence in the record supports a finding that your child has continuously resided in New York State at the same address provided in your Marketplace application. Because you did provide the correct address on your account and because of the length of time in which no action was taken on the part of the Marketplace when notices to you were returned as undeliverable, it is determined that you did not receive the notices required by law and regulation, and that the Marketplace improperly ended your child's coverage.

Therefore, the Marketplace's April 17, 2015 eligibility determination is **RESCINDED**.

Since your child was disenrolled from his CHP plan in error, the subsequent CHP eligibility determinations issued on April 23 and 24, 2015 are **MODIFIED** to state that your child is eligible to enroll through CHP with a \$45.00 premium per month, effective May 1, 2015.

Your case is **RETURNED** to the Marketplace to reinstate your child's CHP enrollment with HealthPlus, an Amerigroup Company, effective May 1, 2015.

Decision

The April 17, 2015 eligibility determination notice is **RESCINDED**.

The April 23 and 24, 2015 eligibility determination notices are **MODIFIED** to state that your child is eligible to enroll through Child Health Plus with a \$45.00 premium per month, effective as of May 1, 2015.

Your case is **RETURNED** to the Marketplace to reinstate your child's Child Health Plus enrollment with HealthPlus, an Amerigroup Company, effective May 1, 2015.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your child remains eligible to enroll through Child Health Plus with a \$45.00 premium per month, effective May 1, 2015.

Your child's enrollment through Child Health Plus with HealthPlus, an Amerigroup Company, will be reinstated effective May 1, 2015.

You are responsible for the premium due for your child's coverage for the month of May 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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- By fax: 1-855-900-5557

Summary

The April 17, 2015 eligibility determination notice is RESCINDED.

The April 23 and 25, 2015 eligibility determination notices are MODIFIED to state that your child is eligible to enroll through Child Health Plus with a \$45.00 premium per month, effective as of May 1, 2015.

Your child remains eligible to enroll through Child Health Plus with a \$45.00 premium per month, effective May 1, 2015.

Your case is RETURNED to the Marketplace to reinstate your child's Child health Plus enrollment with HealthPlus, an Amerigroup Company, effective May 1, 2015.

You are responsible for the premium due for your child's coverage for the month of May 2015.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

