



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: AP000000002854

[REDACTED]

Dear [REDACTED],

On June 29, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 2015 disenrollment 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 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).

This page intentionally left blank.



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: AP000000002854

[REDACTED]

Issue

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

Were your children properly disenrolled from their Child Health Plus coverage as of April 17, 2015?

Procedural History

On November 28, 2014, the Marketplace issued a notice of eligibility determination stating that your three children are eligible to enroll through Child Health Plus with a \$30.00 per month. This eligibility was effective as of December 1, 2014.

The Marketplace issued subsequent eligibility determinations on December 31, 2014 and March 13, 2015, which also stated that your children are eligible to enroll through Child Health Plus with a \$30.00 premium per month.

On December 11, 2014, the Marketplace issued a notice confirming your children's Child Health Plus enrollment with Emblem Health as of November 15, 2014. The notice further stated that their coverage could start as early as January 1, 2014, if you pay the first month's premium.

The Marketplace issued subsequent notices on January 15, 2015 and March 13, 2015 confirming your children's Child Health Plus enrollment with Emblem Health.

On April 17, 2015, the Marketplace issued a disenrollment notice stating that your request to end your insurance coverage with Emblem Health for your children was processed. The notice further stated that your children will no longer have coverage with Emblem Health effective May 31, 2015.

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

On May 9, 2015, the Marketplace received your written request to appeal your children's disenrollment from their Child Health Plus coverage with Emblem Health.

On June 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that hearing and closed at the end of the year.

Findings of Fact

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

- 1) You are seeking health insurance coverage for your three children through the Marketplace.
- 2) The Marketplace's system reflects that, for the 2014 eligibility year, your children were initially enrolled in Child Health Plus (CHP) through Emblem Health from January 1, 2014 to December 31, 2014. The Marketplace's system further reflects that their enrollment with Emblem Health was later adjusted to indicate a start date of January 1, 2014 and an end date of November 30, 2015.
- 3) The Marketplace's system reflects that your children are currently enrolled in CHP through Emblem Health, effective June 1, 2015.
- 4) Prior to the scheduled hearing, you provided evidence, which included notices issued by Emblem Health on April 7, 2015 regarding your three children. The notices stated: "[Emblem Health] will be discontinuing coverage in Emblem Health Child Health Plus (CHPlus) program for [your three children] on 1/1/2015... Unfortunately, we are required to disenroll your child(ren) because the NY State of Health [M]arketplace 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 1).

- 5) You testified that you spoke with your Navigator, [REDACTED], in December 2014 to renew your family's health insurance coverage for 2015. You further testified that she informed you that your children's application was completed and they would have coverage for the 2015 eligibility year.
- 6) The record reflects that your account was updated on November 28, 2014, December 30, 2014, January 14, 2015 and March 12, 2015. There is no evidence in the record that any request for information regarding your children's health insurance renewal was outstanding.
- 7) You testified that you were not aware that your children's CHP coverage with Emblem Health was terminated until you took your child to the doctor on April 16, 2015, at which time you were informed that your child was uninsured. You further testified that you spoke with Emblem Health who confirmed that your children no longer had effective coverage as of January 1, 2015. You testified that you then spoke with the Marketplace who informed you that your children's coverage was still in effect.
- 8) You testified that you did not receive any notices from the Marketplace or Emblem Health regarding your children's termination until April 2015. You further testified that you were not given a reason as to why their coverage was terminated.
- 9) There is no evidence in the record that your children's CHP coverage with Emblem Health was retroactively terminated effective January 1, 2015. There is also no evidence that your children's CHP coverage was terminated by the Marketplace for failure to renew or lack of eligibility.
- 10) You testified, and provided evidence, that you were continuously billed by Emblem Health for insurance premiums for the months of January, February, March, April and May 2015. You further credibly testified that you have paid these insurance premiums every month. You testified that you have not been reimbursed by Emblem Health for any months paid between January and May 2015, which were retroactively terminated.
- 11) You testified, and the record reflects, that you contacted the Marketplace on April 16, 2015 in an attempt to correct the error with your children's CHP coverage by re-enrolling your children in a CHP plan (New York State of Health Exhibit 1).

- 12) You testified that you incurred multiple medical bills for the months in which your children were considered uninsured by Emblem Health.
- 13) You testified that you are seeking to have your children's CHP coverage with Emblem Health reinstated, effective January 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

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)).

Continuous Coverage

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

Legal Analysis

The only issue under review is whether your children's Child Health Plus (CHP) coverage was properly terminated, only to begin again on June 1, 2015, resulting in a gap in coverage.

Generally, the Marketplace may redetermine a child's eligibility for CHP only once every 12 months, and no more frequently than once every 12 months.

The record reflects that your children's original 2014 CHP eligibility year ran from January 1, 2014 to December 31, 2014. Therefore, your children were eligible for renewal at the end of their eligibility year.

On November 28, 2014, the Marketplace issued a notice redetermining your children's CHP eligibility for 2015; therefore, there is sufficient evidence to support a finding that the Marketplace received the necessary information to complete the renewal of your children's CHP coverage, effective December 1, 2014.

The Marketplace's system reflects that your children's CHP enrollment with Emblem Health was adjusted to reflect an enrollment start date of January 1, 2014, and an enrollment end date of November 30, 2015, which reflects continuous CHP enrollment extended for an additional 12 months from the December 1, 2014 effective date of coverage for 2015.

There is no evidence in the record that the Marketplace directed Emblem Health to disenroll your children from their CHP plan effective January 1, 2015. Furthermore, the record does not support a finding that your children should have been disenrolled from their CHP plan with Emblem Health effective January 1, 2015.

Since your children's eligibility was renewed as of November 28, 2014 for coverage effective December 1, 2014, and there is no evidence to suggest that your children should have been disenrolled from their CHP coverage, your children were improperly disenrolled from their CHP coverage by Emblem Health.

The record reflects that you attempted to correct your children's CHP enrollment on April 16, 2015. However, since your children were improperly disenrolled, the April 17, 2015 disenrollment notice was issued in error, and is RESCINDED.

Decision

The April 17, 2015 disenrollment notice is RESCINDED.

Your case is REMANDED to the Marketplace to reinstate your children's Child Health Plus insurance coverage with Emblem Health as of January 1, 2015.

Effective Date of this Decision: October 15, 2015

How this Decision Affects Your Eligibility

Your children's Child Health Plus enrollment with Emblem Health remains in effect as of December 1, 2014, and continues uninterrupted until November 30, 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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).

Summary

The April 17, 2015 disenrollment notice is RESCINDED.

Your case is REMANDED to the Marketplace to reinstate your children's Child Health Plus insurance coverage with Emblem Health as of January 1, 2015.

Your children's Child Health Plus enrollment with Emblem Health remains in effect as of December 1, 2014, and continues uninterrupted until November 30, 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:

