



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003212

[REDACTED]

Dear [REDACTED],

On August 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 2015 and May 9, 2015 eligibility determinations and May 30, 2015 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 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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Issue

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

Did the Marketplace properly determine in the April 17, 2015 and May 9, 2015 eligibility determinations that you were not eligible to select a Medicaid Managed Care plan because you had comprehensive third-party health insurance?

Did the Marketplace properly determine that your enrollment in the Fidelis Care Medicaid Managed Care plan should be effective no earlier than July 1, 2015?

Procedural History

On April 17, 2015, an eligibility determination notice was issued stating that you were conditionally eligible Medicaid because your household income of \$0.00 was at or below the allowable income limit. The notice stated that your eligibility was conditional pending the Marketplace receipt of "Benefit information for Third Party Health Insurance" no later than May 1, 2015. The notice further stated that because you had comprehensive third-party health insurance to assist in meeting your healthcare needs, you could not be enrolled in a Medicaid Managed Care (MMC) plan. Finally, the notice stated that your sons were eligible for Medicaid, without condition, because each of their household incomes of \$0.00 was at or below the allowable income limit. This eligibility was effective April 1, 2015.

Also on April 17, 2015, the Marketplace issued an enrollment confirmation notice that stated that you did not need to pick a health plan. The notice further stated

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that that your sons' enrollment in the Hudson Health MMC plan was effective June 1, 2015.

On May 5, 2015, the Marketplace received a notice confirming that your COBRA coverage terminated effective April 30, 2015.

The Marketplace received a revised application on May 8, 2015.

On May 9, 2015, the Marketplace issued an eligibility redetermination notice stating, in relevant part, that you were now eligible for Medicaid, without condition, effective May 1, 2015. Again, the notice stated that because you had comprehensive third-party health insurance to assist in meeting your healthcare needs, you could not be enrolled in an MMC plan.

On that same day, the Marketplace issued an enrollment confirmation notice stating that you did not need to pick a health plan. The notice further stated that that your insurance coverage through Medicaid will begin May 1, 2015.

On May 29, 2015, the Marketplace received a revised application.

On May 30, 2015, the Marketplace issued an eligibility redetermination notice based on your May 29, 2015 application stating that you were eligible for Medicaid, without conditions, effective May 1, 2015.

On that same date, the Marketplace issued an enrollment confirmation notice confirming your enrollment as of May 29, 2015, in the Fidelis Care MMC plan. The notice further stated that your enrollment in the Fidelis Care MMC plan was effective July 1, 2015. You appealed this enrollment confirmation notice insofar as it began your coverage under your MMC plan on July 1, 2015.

On August 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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) On April 17, 2015, you were found eligible for Medicaid based on the information contained in your Marketplace application.
- 2) The April 17, 2015 and May 9, 2015 eligibility determination notices each state that you did not need to pick a plan at that time because you had comprehensive third-party health insurance.

- 3) You provided to the Marketplace on May 5, 2015 a coverage termination notice confirming that your COBRA coverage was voluntarily terminated effective April 30, 2015.
- 4) You Medicaid fee-for-service coverage was effective May 1, 2015.
- 5) You testified that you had made a medical appointment for May 2015 approximately six months prior.
- 6) You testified that you believed you had selected a Fidelis Care Medicaid Managed Care (MMC) plan on April 17, 2015, at the same time you had selected your sons' MMC plan coverage.
- 7) You testified that you incurred several medical bills as a result of that May appointment since that doctor did not take Medicaid fee-for-service.
- 8) You testified that someone at Open Door Medical Group had assisted you with your application on or about April 17, 2015, and you believe that they had selected the appropriate Fidelis Care plan for yourself and Hudson health for your sons.
- 9) You testified that you would never had gone through with the appointment had you known you were not covered by the Fidelis Care MMC plan.
- 10) Your application indicates that you elected to receive all correspondence from the Marketplace via U.S. Mail.
- 11) On May 30, 2015, the Marketplace issued a notice advising you that your Fidelis Care MMC plan would take effect on July 1, 2015.
- 12) You testified that you want your MMC plan to take effect on May 1, 2015.

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

Applicable Law and Regulations

Medicaid

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 (42 CFR § 435.915(b)).

Medicaid Managed Care Plans

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)).

Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible to select a Medicaid Managed Care (MMC) at the time of the April 17, 2015 and May 9, 2015 eligibility determinations.

On April 17, 2015, the Marketplace determined that you were conditionally eligible for Medicaid effective May 1, 2015; however, you were informed at that time that you did not need to select an MMC plan since you had third-party health insurance. You were requested to provide “Benefit information for Third Party Health Insurance” no later than May 1, 2015.

The credible evidence of record reflects that you were enrolled in third-party health insurance coverage through your former employer via COBRA beginning March 31, 2014 and ending on April 30, 2015. You provided to the Marketplace a document reflecting this on May 5, 2015.

Since at the time of your April 17, 2015 application, you were enrolled in third-party health insurance and you did not have proof that you were not covered by third-party health insurance by the required deadline of May 1, 2015, the Marketplace correctly found you not eligible to enroll in an MMC as of April 17, 2015. Therefore, the April 17, 2015 eligibility determination is AFFIRMED.

However, upon submitting your revised application on May 8, 2015, the necessary documentation that you were no longer enrolled in third-party health insurance was available under your Marketplace account. Accordingly, you should have been permitted to select an MMC plan at that time. Therefore, we find there is sufficient evidence that the May 9, 2015 eligibility determination should be MODIFIED to permit the selection of an MMC plan.

The second issue is whether the Marketplace properly determined that your enrollment in the Fidelis Care Medicaid Managed Care (MMC) plan was effective July 1, 2015.

The date on which an MMC plan can take effect depends on the day a person selects the plan for enrollment.

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A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month.

A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

You credibly testified that you took all necessary steps to select the Fidelis Care MMC plan on May 9, 2015, but that based on the notifications in your account, the Marketplace did not recognize your selection until you further revised your application on May 29, 2015. Since you had submitted the necessary documentation by the time of the May 9, 2015 eligibility determination, you should have been allowed to select an MMC plan at that time. Had you enrolled then, your enrollment in your MMC plan would have been effective on the first day of the following month after May 9, 2015; that is, on June 1, 2015.

Therefore, the May 30, 2015 enrollment confirmation notice stating that your MMC coverage would take effect on July 1, 2015 is incorrect and must be MODIFIED to have such coverage take effect on June 1, 2015.

Decision

The April 17, 2015 eligibility determination is AFFIRMED.

The May 9, 2015 eligibility determination is MODIFIED to permit the selection of a Medicaid Managed Care (MMC) plan.

The May 30, 2015 enrollment confirmation notice stating that your MMC coverage would take effect on July 1, 2015 is incorrect and must be MODIFIED to have such coverage take effect on June 1, 2015.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your Medicaid fee-for-service coverage start date is May 1, 2015.

Your Fidelis Care Medicaid Managed Care coverage start date is June 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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- By fax: 1-855-900-5557

Summary

The April 17, 2015 eligibility determination is **AFFIRMED**.

The May 9, 2015 eligibility determination is **MODIFIED** to permit the selection of an MMC plan.

The May 30, 2015 enrollment confirmation notice stating that your MMC coverage would take effect on July 1, 2015 is incorrect and must be MODIFIED to have such coverage take effect on June 1, 2015.

Your Medicaid fee-for-service coverage start date is May 1, 2015.

Your Fidelis Care MMC coverage start date is June 1, 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:

