



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

Notice of Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003266

[REDACTED]

Dear [REDACTED],

On July 3, 2015 you appeared by telephone at an expedited hearing on your appeal of NY State of Health Marketplace's May 2, 2015 eligibility determination and May 4, 2015 disenrollment notices.

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).

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NY State of Health Number: [REDACTED]
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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 youngest son is not eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through the Marketplace effective May 31, 2015?

Did the Marketplace properly terminate your youngest son's coverage in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 effective May 31, 2015?

Procedural History

On January 3, 2015 the Marketplace issued an eligibility determination notice that your youngest son is conditionally eligible to purchase a qualified health plan (QHP) at full cost through the Marketplace effective January 1, 2015. You were directed to provide documentation by April 4, 2015 for your youngest son's citizenship status or social security number to confirm his eligibility.

On the same day the Marketplace issued an enrollment notice confirming that your youngest son would be enrolled in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 (Empire) and coverage could start as early as January 1, 2015.

On May 2, 2015 the Marketplace issued an eligibility determination notice that your youngest son is "not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. [He] also cannot enroll in a qualified health plan at full cost through the [Marketplace]."

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The notice states that you failed to provide proof of your youngest son's social security number or citizenship status.

On May 4, 2015 the Marketplace issued a disenrollment notice that your youngest son's Empire health plan would end effective May 31, 2015.

On June 2, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as your youngest son being determined not eligible to enroll in a health plan through the Marketplace effective May 31, 2015.

On June 4, 2015 you uploaded a statement from your son's pediatrician showing the need for an expedited hearing.

On July 3, 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) Your youngest son was born on [REDACTED] (Marketplace Account; Testimony).
- 2) Your youngest son was determined conditionally eligible to purchase a qualified health plan at full cost through the Marketplace effective January 1, 2015. You were directed to provide documentation by April 4, 2015 for your youngest son's citizenship status or social security number to confirm his eligibility (1/3/2015 Marketplace notice).
- 3) You enrolled your youngest son in an Empire health plan on January 2, 2015 (1/3/2015 Marketplace notice).
- 4) The Marketplace determined that your youngest son was not eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through the Marketplace effective May 31, 2015 (5/2/2015 Marketplace notice).
- 5) Your youngest son was disenrolled from the Empire health plan effective May 31, 2015 (5/4/2015 Marketplace notice).
- 6) You testified you found out that your son's health insurance was discontinued at a June 1, 2015 doctor's appointment.

- 7) You testified that you opted to receive electronic notices and never received a notice that you needed to provide additional documentation for your son.
- 8) You provided your son's social security number to the Marketplace on June 2, 2015.

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

Applicable Law and Regulations

Social Security Number:

The Marketplace must require an applicant who has a Social Security number to provide such number to the Marketplace (45 CFR § 155.310(a)(3)(i)).

If the Marketplace is unable to validate an individual's Social Security number, the Marketplace must provide the individual with notice of the inconsistency and a period of 90 days from the date the notice is received for the applicant to provide satisfactory documentary evidence (45 CFR § 155.315(b)(2); 45 CFR § 155.315(f)(2)(i), (ii)).

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—

- (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 3, 2015 the Marketplace issued an eligibility determination notice that your youngest son is conditionally eligible to purchase a QHP at full cost through the Marketplace effective January 1, 2015. You were directed to provide documentation by April 4, 2015 for your youngest son's citizenship status or social security number to confirm his eligibility.

On the same day the Marketplace issued an enrollment notice confirming that your youngest son would be enrolled in Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 (Empire) and coverage could start as early as January 1, 2015.

On May 2, 2015 the Marketplace issued an eligibility determination notice that your youngest son is "not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost sharing reductions to help pay for the cost of insurance. [He] also cannot enroll in a qualified health plan at full cost through the [Marketplace]." The notice states that you failed to provide proof of your youngest son's social security number or citizenship status.

On May 4, 2015 the Marketplace issued a disenrollment notice that your youngest son's Empire health plan would end effective May 31, 2015.

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 3, 2015 eligibility determination 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

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regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that you learned that your son had no health insurance at a doctor appointment.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding the need for additional information to confirm your son's eligibility through the Marketplace.

Accordingly, the May 2, 2015 notice stating that your youngest son is not eligible to enroll in a QHP or receive financial assistance because you did not provide additional documentation within the required timeframe lacks support in the record and is RESCINDED.

Therefore, the May 4, 2015 disenrollment notice is RESCINDED.

Decision

The notice of eligibility determination issued on May 2, 2015 is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

Effective Date of this Decision: October 19, 2015

How this Decision Affects Eligibility

This decision cancels the May 2, 2015 eligibility determination and the May 4, 2015 disenrollment notices.

Your youngest son's Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 health coverage was effective on January 1, 2015 and shall continue until December 31, 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.

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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

Summary

The notice of eligibility determination issued on May 2, 2015 is RESCINDED.

The May 4, 2015 disenrollment notice is RESCINDED.

This decision cancels the May 2, 2015 eligibility determination and the May 4, 2015 disenrollment notices.

Your youngest son's Empire HMO 2250 Silver NS INN Pediatric Dental Dep 25 health coverage was effective on January 1, 2015 and shall continue until December 31, 2015.

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

