



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: AP000000003359

[REDACTED]

Dear [REDACTED],

On August 28, 2015, your husband, [REDACTED], appeared on your behalf by telephone at a hearing on your appeal of NY State of Health Marketplace's June 6, 2015 enrollment 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 45 CFR § 155.545(b).

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Decision Date: October 28, 2015

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 that your infant child's coverage through a Medicaid Managed Care plan began on July 1, 2015, instead of March 1, 2015 when he was deemed Medicaid eligible?

Procedural History

On January 16, 2015, based on updated information received, the Marketplace issued a notice of eligibility redetermination that you were eligible for Medicaid effective January 1, 2015, and your spouse and three children remained eligible for Medicaid effective January 1, 2015.

That same day, the Marketplace issued a notice confirming your enrollment in Medicaid and your spouse and three children's health coverage with Medicaid Fee-For-Service, effective January 1, 2015, and their enrollment in New York State Catholic Health Plan, Inc., a Medicaid Managed Care (MMC) plan, effective February 1, 2015.

On April 13, 2015, the Marketplace issued a notice of eligibility redetermination based on the change in your household size you had reported on April 12, 2015 due to the birth of your infant child. That notice stated in relevant part that you were conditionally eligible for Medicaid effective April 1, 2015, your newborn child was conditionally eligible for Medicaid effective March 1, 2015, and you needed to confirm benefit information

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from third party health insurance (TPHI) by submitting documents before April 27, 2015. That notice also stated that your newborn child's Social Security number and documents proving his citizenship had to be produced by July 11, 2015.

That same day, the Marketplace issued a notice confirming your family's enrollments. It stated in part that you and your newborn child do not need to pick a plan and your coverage with Medicaid will begin April 1, 2015 and your newborn child's coverage with Medicaid will begin March 1, 2015.

On April 17 and 21, 2015, the Marketplace issued notices of eligibility redetermination that you and your newborn child were eligible for Medicaid effective April 1, 2015 and March 1, 2015 respectively.

On April 18 and 22, 2015 and May 14, 2015, the Marketplace issued notices confirming your family's enrollments and your and your infant child's enrollments remained the same as stated in the April 13, 2015 enrollment notice.

On May 20, 2015, the Marketplace issued a notice of eligibility redetermination that you were conditionally eligible for Medicaid, effective May 1, 2015, and that you needed to confirm benefit information from third party health insurance by submitting documents before June 3, 2015. The rest of your family including your infant child remained eligible for Medicaid, effective May 1, 2015.

That same day, the Marketplace issued a notice confirming your enrollment in Medicaid effective May 1, 2015, your newborn child's enrollment in Medicaid, effective March 1, 2015, and the rest of your family's enrollment in an MMC plan, effective February 1, 2015.

On May 22, 2015, the Marketplace issued a letter that additional information was still needed because the documentation submitted about your third party health insurance was insufficient. The letter referred you to the end of the notice to see what documentation can satisfy Employer Sponsored Health Insurance wherein it states that, "[i]f you are currently enrolled in health insurance: A copy of the front and back of health insurance card..."

On June 5, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible for Medicaid, effective June 1, 2015, your newborn child was eligible for Medicaid, effective March 1, 2015, and the rest of your family remained Medicaid eligible, effective June 1, 2015.

On June 6, 2015, the Marketplace issued a notice confirming your family's enrollments. It stated that you do not need to pick a health plan, your spouse and three children are enrolled in a Fidelis Care MMC plan, New York State Catholic Health Plan, Inc., effective February 1, 2015, and your newborn child's enrollment in that MMC plan is effective July 1, 2015.

On June 8, 2015, your spouse, acting on your behalf, spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your infant child's coverage under the family's MMC plan, effective July 1, 2015 and not as of his date of birth.

On August 28, 2015, your spouse, acting on your behalf, 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) Your spouse testified, and the record reflects, that you are appealing only your infant child's eligibility.
- 2) On January 24, 2015, in response to the Marketplace's December 29, 2014 request for information regarding your third party health insurance (TPHI), you uploaded to your Marketplace account the front and back of your Health Republic Insurance of New York identification card showing you as a member of its Essential Care Gold health plan (Document ID #s [REDACTED] 0 and U150141094457).
- 3) Your spouse testified at hearing that only you had purchased coverage outside the Marketplace because of your high risk pregnancy.
- 4) According to your Marketplace account, your spouse and three children were enrolled in a Medicaid Managed Care (MMC) plan, effective February 1, 2015.
- 5) According to your Marketplace account, on April 12, 2015, you added your infant child to your account and, on April 14, 2015, you uploaded a copy of his Social Security card showing his Social Security number that was issued on April 9, 2015 (Document ID # [REDACTED]). Your infant child's enrollment shows it was updated on April 14, 2015.
- 6) Your spouse testified that he uploaded your infant child's birth certificate that same day, but it was not available in your Marketplace account as of the date of the hearing, so he uploaded it during the hearing (Document ID # [REDACTED]). The certificate shows that your child was born at [REDACTED] in Manhattan, New York on [REDACTED].
- 7) According to your Marketplace account, on April 12, 2015, you reported a life changing event, that is, the addition of your newborn child to your household. His enrollment was updated on April 14, 2015 to show he had health coverage with Medicaid effective March 1, 2015.

- 8) According to the April 17 and 21, 2015 notices of eligibility redeterminations in your Marketplace account, your and your infant child's eligibility for Medicaid was no longer conditional.
- 9) According to the April 18 and 22, 2015 and May 18, 2015 enrollment notices in your Marketplace account, your infant child was enrolled in Medicaid Fee-For-Services, effective March 1, 2015.
- 10) According to your Marketplace account, on May 13, 2015, you attempted to update your infant child's enrollment.
- 11) Your spouse testified that, on May 19, 2015, in response to your or his inability to select a plan for your infant child, a snapshot of your Health Republic of New York online account showing coverage for yourself in "New York Essential Care Gold Plan Off Exchange," effective January 1, 2015 and active and current as of January 15, 2015, was uploaded to your Marketplace account (Document ID # [REDACTED]).
- 12) According to your Marketplace account on May 22, 2015, that snapshot was determined to be invalid proof of TPHI and a notice stating that you must submit a copy of the front and back of your health insurance card was sent (see Marketplace Account, Documents Tab, under [REDACTED] Invalid Documents).
- 13) According to a Marketplace notation, on May 29, 2015, your spouse called because he still could not select an MMC plan for your infant child and had uploaded Document ID # [REDACTED] referenced in Fact # 11 above to show that only you had TPHI.
- 14) Your spouse testified that neither of you knew that you could elect to have your newborn child covered under your primary health plan with Health Republic Insurance of New York for the first 30 days of his life provided you gave proper notice to the health plan and, therefore, did not elect to do so.
- 15) On June 1, 2015, the Marketplace verified that your infant child did not have TPHI based on a December 31, 2014 enrollment confirmation statement from Health Republic Insurance of New York showing you as the primary member and only you being covered at a monthly premium amount of \$500.87 effective January 1, 2015.
- 16) On June 6, 2015, the MMC plan selection for your infant child was confirmed with an effective date of July 1, 2015.
- 17) According to a Certificate of Health Coverage, dated August 14, 2015 and uploaded to your Marketplace account on August 18, 2015, you had TPHI for

yourself only with Health Republic Insurance of New York from January 1, 2015 to August 31, 2015 (Appellant's Exhibit A).

- 18) Your spouse testified that you both had timely provided documents to show your TPHI and that your infant son was not covered under that health plan and timely provided your infant child's Social Security number, which also served to prove his citizenship status, yet were unable to enroll him in an MMC plan until June 5, 2015, based on a December 31, 2014 statement from Health Republic Insurance of New York.
- 19) Your spouse further testified that he was assured by his MMC plan, your broker, and the Marketplace that your infant child's coverage would be made effective as of May 1, 2015, if not April 1, 2015.
- 20) Your spouse testified that, as a result, you and he incurred medical expenses for your infant child's newborn care in April, May, and June 2015, because his pediatrician did not accept Medicaid Fee-For-Services, and you want to be reimbursed for those expenses.

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

Applicable Law and Regulations

Newborn Child – Effective Date of Coverage

There are special effective dates in the case of birth, adoption, placement for adoption, or placement in foster care of a child for Marketplace Exchanges. The Marketplace must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR §155.420(b)(2)).

If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR §155.420(b)(2)).

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 (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)).

To ensure continuity of coverage, applicants may be determined eligible for and have their coverage activated at any time during the month, with Medicaid Fee-For-Service coverage provided until the MMC plan enrollment is activated on the first day of the applicable month.

Legal Analysis

The issue is whether the Marketplace properly determined that your infant child's enrollment in his Medicaid Managed Care (MMC) plan was effective July 1, 2015.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment.

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.

The record reflects that you had timely provided proof of third party health insurance (TPHI) on January 24, 2015, when you uploaded the front and back of your health insurance identification card. There is nothing in the Marketplace account to reflect that you had added your newborn child to that health plan and, in fact, your Marketplace account and your spouse's testimony suggest the opposite.

Initially, your infant child was born on [REDACTED], such that the Marketplace properly determined him eligible for Medicaid Fee-For-Service Medicaid, effective March 1, 2015. To the extent that the notices of eligibility determination and subsequent notices of eligibility redetermination state that March 1, 2015 is the effective date of your infant child's coverage through Medicaid, those notices and the concomitant enrollment notices are AFFIRMED.

However, the credible evidence of record demonstrates that as early as April 14, 2015, you and/or your spouse tried to enroll your infant child in an MMC plan but were unable to. It appears from the record that this was because the Marketplace needed to confirm that your infant child was not covered under your TPHI, despite no notice from the Marketplace referencing that such proof was required. The notices of record indicate that you only needed to submit his Social Security number and proof of citizenship.

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Since his Social Security number was uploaded on April 14, 2015, and suffices as proof of citizenship, you should have been able to enroll your infant child in an MMC plan had that option been available to you. Further, it is unclear how or why the Marketplace verified that your TPHI enrollment confirmation statement from December 31, 2014 that was uploaded on June 1, 2015 somehow superseded (replaced) the evidence of your TPHI coverage provided on January 24, 2015 via the front and back of your health insurance identification card, as well as the proof of active TPHI coverage for just you that was uploaded on May 19, 2015, and why as of that date you were still unable to enroll your infant child in an MMC plan.

Since the record reflects and your spouse credibly testified that you or he would have selected an MMC plan for your infant child on or before April 15, 2015 if that option was available, his enrollment would have been effective the first day of the following month after April 2015, that is, on May 1, 2015.

Therefore, the June 6, 2015 enrollment confirmation notice stating that your infant child's MMC coverage would take effect on July 1, 2015 is incorrect and is MODIFIED to state his MMC coverage became effective May 1, 2015.

Decision

The Marketplace's notices of eligibility determination and redetermination as of April 13, 2015 that state your infant child is eligible for Medicaid as of March 1, 2015 are AFFIRMED.

The June 6, 2015 enrollment confirmation notice is MODIFIED to state your infant child's Medicaid Managed Care plan selection is effective May 1, 2015.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

This decision does not change your infant child's eligibility.

The effective date of your infant child's coverage through Medicaid Fee-For-Service is March 1, 2015.

The effective date for your infant child's enrollment in the MMC plan you selected for him is effective May 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Marketplace's notices of eligibility determination and redetermination as of April 13, 2015 that state your infant child is eligible for Medicaid as of March 1, 2015 are **AFFIRMED**.

The June 6, 2015 enrollment confirmation notice is **MODIFIED** to state your infant child's Medicaid Managed Care plan selection is effective May 1, 2015.

This decision does not change your infant child's eligibility.

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The effective date of your infant child's coverage through Medicaid Fee-For-Service is March 1, 2015.

The effective date for your infant child's enrollment in the MMC plan you selected for him is effective May 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:

