



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

Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003934

[REDACTED]

Dear [REDACTED],

On October 1, 2015 you appeared by telephone at a hearing regarding your appeal of the NY State of Health Marketplace's June 4, 2015 redetermination 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).

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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Issues

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

Did the Marketplace properly disenroll your son from his health insurance effective December 31, 2014 for failure to renew the information in your account by December 15, 2014?

Did the Marketplace properly determine that your child's eligibility for Child Health Plus began effective July 1, 2015 and not January 1, 2015?

Procedural History

On November 6, 2014, a renewal notice was sent by the Marketplace asking that you update the information in your account by December 15, 2014, so a decision could be made regarding your child's eligibility for financial assistance. The notice further stated that if you miss this deadline, the financial assistance you were receiving could end.

On December 27, 2014, a disenrollment notice was issued ending coverage for your household effective December 31, 2014.

On June 4, 2015, the Marketplace received your household's application for health insurance.

On June 4, 2015, the Marketplace redetermined your household's eligibility finding your son eligible to enroll in Child Health Plus with a \$9.00 monthly premium a month per child, effective July 1, 2015. This was based on a

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household income of \$32,160.00. The notice further stated that their coverage would be effective shortly after the first premium payment was received by the health plan.

That same day the Marketplace issued a notice confirming your Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$9.00 and coverage could start as early as July 1, 2015, if you pay your first month's premium.

On June 5, 2015, you spoke to the Marketplace's Account Review Unit and requested that your Child Health Plus plan be backdated to January 1, 2015.

On September 2, 2015, a notice of telephone hearing was issued for a telephone hearing on October 1, 2015 at 10:00 am.

On October 1, 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 left open for 15 days for you to provide the additional documentation which was received by the Appeals Unit that same day. It has been made part of the record as "Appellant's Exhibit A".

Findings of Fact

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

- 1) You testified that you are appealing only your son's eligibility.
- 2) You testified that you never received or were aware of any notice from the Marketplace asking you to renew his health insurance through Child Health Plus on November 6, 2014.
- 3) You further testified that you were not aware that your son was disenrolled from his insurance effective December 31, 2014.
- 4) The record supports that your current address is [REDACTED], [REDACTED].
- 5) You testified that your address has not changed.
- 6) You testified that you continued to pay your monthly premium responsibility because you were not aware that your son was disenrolled from his health insurance. You provided a copy of the returned premium amount from your insurance provider Fidelis Care in the amount of \$252.00 dated September 15, 2015 (Appellant's Exhibit 1).

- 7) You testified that you believed your son's coverage was still in effect since December of 2014, and you were only made aware of the fact that he did not have any insurance coverage when you brought him to an allergist to receive treatment on or around June 1, 2015.
- 8) You testified and the record supports that you updated your application in your account on June 4, 2015.
- 9) You enrolled your son in a Child Health Plus plan through the Marketplace on June 4, 2015.
- 10) You testified that you elected to receive notices through regular mail and not receive e-mails via electronic notice.

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

Applicable Law and Regulations

Child Health Plus Effective Date:

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

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)).

Annual Eligibility Redetermination

Generally, a child who is eligible for CHP may only have his or her financial eligibility redetermined once every 12 months, and no more frequently than once every twelve months (42 CFR § 435.916(a)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)).

Timely Notice of Eligibility Determination

The Marketplace must determine an applicant's eligibility promptly and without undue delay. The Marketplace must then provide a timely written notice to an applicant of any eligibility determination made (45 CFR § 155.310(e), (g); 45 CFR § 155.330(e)).

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election (42 CFR §435.918(a)).

If the individual elects electronic communications, the Marketplace must send "an email or other electronic communication alerting the individual that a notice has been posted to his or her account" and send a notice by regulation mail within three business days if the electronic communication cannot be delivered (42 CFR §435.918(b)(4),(5)).

Legal Analysis

The first issue is whether the Marketplace properly disenrolled your son from his health coverage effective December 31, 2014 for failure to renew the information in your account by December 15, 2014?

On November 6, 2014, a renewal notice was mailed to your address at [REDACTED], asking that you update the information in your account by December 15, 2014, so a decision could be made regarding your child's eligibility for Child Health Plus. The notice further stated that if you missed this deadline, the financial assistance you were receiving could end. On December 27, 2014, a disenrollment notice was issued ending coverage for your household effective December 31, 2014. Again, this notice was mailed to the same address that has been in effect in your account which was [REDACTED].

You testified that you never received any of the notices issued by the Marketplace, and you only became aware that your child's health coverage had ended when you brought him to see an allergy specialist on June 1, 2015.

You also testified that you continued to pay your monthly premium responsibility because you were not aware that your son was disenrolled from his health insurance and your healthcare provider continued to accept payment. You provided a copy of the returned premium amount from your insurance provider Fidelis Care in the amount of \$252.00 dated September 15, 2015 (Appellant's Exhibit 1).

The Marketplace must permit individuals a choice to receive notices and information in electronic format or by regular mail and must be permitted to change such election.

You testified and the record supports that you elected to receive notices from the Marketplace via regular mail. There is no record in your account of you providing an e-mail address for the Marketplace to send you electronic notices.

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year. The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected. The Marketplace mailed the renewal notices to the address listed in your application, and provided you a reasonable amount of time to update the information in your account by December 15, 2014, which you failed to respond to.

Therefore, the December 27, 2014 disenrollment notice was proper and is **AFFIRMED**.

The second issue is whether the Marketplace properly determine that your child's eligibility for Child Health Plus began effective July 1, 2015 and not January 1, 2015?

During the hearing you indicated that upon realizing that your son did not have health coverage you made sure to apply through the Marketplace. You submitted your son's application for health insurance on June 4, 2015 and you enrolled him in a Child Health Plus plan that same day.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received before the 15th of the month, benefits are provided on the first day of the next month.

On June 6, 2015, the Marketplace issued an eligibility determination notice stating that your son is eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective July 1, 2015.

That same day, the Marketplace issued a notice confirming your Child Health Plus plan selection. The notice confirmed that the total monthly premium was

\$9.00 and your son's coverage could start as early as July 1, 2015, if you pay your first month premium. You contacted the Marketplace and asked that coverage be backdated to take effect on January 1, 2015.

Since your son's application was filed on June 4, 2015, his Child Health Plus plan properly took effect on July 1, 2015.

Therefore the Marketplace's June 4, 2015 eligibility determination was proper and is AFFIRMED.

Decision

The December 27, 2014 disenrollment notice was proper and is AFFIRMED.

The June 4, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: January 08, 2016

How this Decision Affects Your Eligibility

This decision does not change your son's eligibility.

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

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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):

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- By calling the Customer Service Center at 1-855-355-5777
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Summary

The December 27, 2014 disenrollment notice was proper and is AFFIRMED.

The June 4, 2015 eligibility determination is AFFIRMED.

This decision does not change your son's eligibility.

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:

