



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: AP000000004001

[REDACTED]
[REDACTED]
Dear [REDACTED],

On October 7, 2015, you appeared by telephone at a hearing on your appeal.

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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Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004001

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Issue

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

Should your children have had coverage through their Child Health Plus plan for the months of January, February, and March 2015?

Procedural History

On December 1, 2014, the Marketplace issued an eligibility determination notice stating that your children were newly eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2014.

On December 15, 2014, the Marketplace issued a notice confirming your children's Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$18.00 and their coverage could start as early as December 1, 2014 if you paid your first month premium.

On February 24, 2015, the Marketplace issued a notice confirming your children's disenrollment from their Child Health Plus plan. The notice stated that you requested to end their coverage and that they would no longer have coverage through their Child Health Plus plan effective March 31, 2015.

Also on February 24, 2015, the Marketplace issued a notice confirming your selection of a Child Health Plus plan for your children. The notice confirmed that the total monthly premium was \$18.00 and their coverage could start as early as April 1, 2015 if you paid your first month premium.

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On July 23, 2015, you spoke to the Marketplace's Account Review Unit and appealed the apparent termination of your children's insurance coverage for the months of January 2015 through March 2015, because you had never received a determination on your original complaint.

On October 7, 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 support the following findings of fact:

- 1) You testified that your children had had Medicaid coverage through their Local Department of Social Services, but that coverage ended effective January 1, 2015.
- 2) You testified that a Marketplace representative incorrectly put in your children's Medicaid end date as December 1, 2014.
- 3) On December 15, 2014, the Marketplace issued a notice confirming that your children could have coverage through their Child Health Plus plan as early as December 1, 2014 if you paid the first month's premium.
- 4) You testified that you paid a premium to your children's Child Health Plus plan for January, February, and March 2015. However, those premiums were not applied to those months because the Child Health Plus plan had been cancelled as of December 1, 2014 because it showed that your children had Medicaid for the month of December 2014.
- 5) You testified that you never got a letter or notice indicating that there was something wrong with your children's health coverage.
- 6) On February 10, 2015, you called the Marketplace seeking assistance in resolving your children's Child Health Plus enrollment issue. The record also indicates that you called several times to follow up on your initial complaint. As of the date of the hearing, no action has been taken by the Marketplace on your original complaint.
- 7) The Appeals Summary in the New York State of Health Evidence Packet states in part that: "On 02/23/15 NYSOH deleted the children's enrollment to process new enrollment request to health plan."

- 8) On February 24, 2015 the Marketplace issued a disenrollment notice stating in part that your children would no longer have coverage through their Child Health Plus plan as of March 31, 2015.
- 9) On February 24, 2015, the Marketplace issued a notice confirming your children's enrollment in a Child Health Plus plan as early as April 1, 2015 if you paid your first month premium.
- 10) You testified that, as of April 1, 2015, there have been no issues with your children's Child Health Plus plan coverage.
- 11) You testified that you are seeking your children to have coverage through their Child Health Plus plan for January, February, and March 2015.

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

Applicable Law and Regulations

Marketplace Eligibility Determinations

When an individual applies for insurance through the Marketplace, the Marketplace must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)). The Marketplace is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements.

Termination of Coverage

The Marketplace may initiate termination of an enrollee's coverage in a health plan and must permit a health plan issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a health plan through the Marketplace; or (2) The enrollee's coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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)).

Legal Analysis

The only matter at issue is whether your children had or should have had insurance coverage through their Child Health Plus plan for the months of January, February, and March 2015.

On December 1, 2014, the Marketplace issued an eligibility determination notice stating that your children were newly eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2014. On December 15, 2014 the Marketplace issued a notice confirming that your children could have coverage through their Child Health Plus plan as early as December 1, 2014 if you paid the first month’s premium.

You testified that your children had Medicaid coverage through their Local Department of Social Services, but that that coverage ended effective January 1, 2015. You testified that a Marketplace representative incorrectly put in your children’s Medicaid end date as December 1, 2014.

You testified that you paid the premium for your children’s Child Health Plus plan for January, February, and March 2015. However, those premiums were not applied to those months because the Child Health Plus plan had been cancelled as of December 1, 2014 because it erroneously showed that your children already had Medicaid for the month of December. You testified that you never received any letters or notices that there was something wrong with your children’s Child Health Plus coverage.

The record indicates that you called the Marketplace in early February 2015 seeking a resolution to your issue. The record also indicates that you called several times to follow up on your initial complaint. As of the date of the hearing, no action has been taken by the Marketplace on your original complaint.

The record contains sufficient and credible evidence to support a finding that your children should have had coverage in their Child Health Plus plan as of January 1, 2015. The December 15, 2014 notice clearly states that their coverage would begin once you paid your first month’s premium. You knew your children had coverage through Medicaid until the end of December 2014 and you therefore paid a premium for January coverage. Since you paid a premium for

January 2015, your children's Child Health Plus plan should have been effective as of the first of that month. There are no eligibility determination notices, nor any preliminary eligibility determinations, that support any conclusion that your children should not have been eligible for and enrolled in a Child Health Plus plan as of January 1, 2015.

Furthermore, the Appeals Summary in the New York State of Health Evidence Packet states in part that: "On 02/23/15 NYSOH deleted the children's enrollment to process new enrollment request to health plan. On February 24, 2015 the Marketplace issued a disenrollment notice stating in part that your children would no longer have coverage through their Child Health Plus plan as of March 31, 2015." The statement in the Appeals Summary as well as the February 24, 2015 disenrollment notice further indicates that your children were enrolled in a Child Health Plus plan prior to their reenrollment beginning April 1, 2015.

Therefore, your case is RETURNED to the Marketplace to facilitate with the insurance provider a correction of any outstanding issues of your children's enrollment in their Child Health Plus plan for the months of January, February, and March 2015.

Decision

Your case is RETURNED to the Marketplace to facilitate with the insurance provider a correction of any outstanding issues of your children's enrollment in their Child Health Plus plan for the months of January, February, and March 2015.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your case is being sent back to the Marketplace to facilitate with the insurance provider a correction of any outstanding issues of your children's enrollment in their Child Health Plus plan for the months of January, February, and March 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.

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).

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

Your case is being sent back to the Marketplace to facilitate with the insurance provider a correction of any outstanding issues of your children's enrollment in their Child Health Plus plan for the months of January, February, and March 2015.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

