



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: AP000000004094

[REDACTED]

Dear [REDACTED]

On October 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 28, 2015 notice of eligibility determination and July 29, 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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Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004094



Issue

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

Did the Marketplace properly determine that your child's enrollment in his Child Health Plus plan was effective July 1, 2015?

Procedural History

On April 25, 2014, the Marketplace sent you a letter confirming that you had chosen to receive all information from the New York State of Health electronically.

On August 13, 2014, an eligibility determination notice was issued stating that your child was eligible for Medicaid effective March 1, 2014.

On August 14, 2014, an enrollment confirmation notice was issued stating that your child had been enrolled in a Medicaid managed care plan.

On April 12, 2015, the Marketplace issued a notice that it was time for you to renew your child's health insurance, but that your child could not be enrolled in his current health plan. The notice stated that your child qualified for coverage through Child Health Plus effective June 1, 2015 and that you needed to select a new health plan for him before May 15, 2015 for that plan to be effective June 1, 2015.

On May 17, 2015, the Marketplace issued a disenrollment notice stating that your son's Medicaid coverage would end effective May 31, 2015.

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On May 20, 2015, the Marketplace issued an enrollment confirmation notice that stated your child's coverage through Child Health Plus could begin as early as July 1, 2015 if you paid your first month's premium.

On July 29, 2015, the Marketplace issued an enrollment confirmation notice that stated your child's enrollment in his Child Health Plus plan is effective July 1, 2015.

Also on July 29, 2015, you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as your child's Child Health Plus plan was effective July 1, 2015 and not June 1, 2015.

On October 13, 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 you did not receive any notices stating that you needed to select a Child Health Plus plan for your child.
- 2) You testified, and a letter dated April 25, 2014 confirms, that you initially elected to receive all information from the Marketplace via electronic mail. You have since changed your account to request notices by regular mail.
- 3) On April 12, 2015, the Marketplace issued a notice informing you that you needed to select a Child Health Plus plan for your child before May 15, 2015 for him to have coverage effective June 1, 2015.
- 4) You testified that you did not receive an email alerting you that a notice was available in your Marketplace Inbox in April 2015.
- 5) You testified that when you did go to your Marketplace Inbox to review your notices, you were unable to open any of the notices without receiving an error message.
- 6) Your child was enrolled into a Child Health Plus plan and given a July 1, 2015 effective date.

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

Applicable Law and Regulations

Renewal

In general, the Marketplace must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

Child Health Plus

“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)).

Electronic Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue is whether the Marketplace properly determined that your child's enrollment in his Child Health Plus plan was effective July 1, 2015.

Generally, the Marketplace must redetermine a qualified individual's eligibility once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. On April 12, 2015, the Marketplace issued a notice that it was time to renew your child's health insurance. The notice stated that your child could not be enrolled in his current health plan. The notice further stated that your child had qualified for coverage under Child Health Plus effective June 1, 2015 and that you needed to select a new health plan for him before May 15, 2015 for that plan to be effective June 1, 2015.

Because there was no timely response to this notice, your child was not enrolled into a Child Health Plus plan effective June 1, 2015.

However, you credibly testified that you received no notice advising you that you needed to select a Child Health Plus plan for your child. You testified, and a letter dated April 25, 2014 confirms, that you elected to receive all information from the Marketplace via electronic mail. You testified that you did not receive an email alerting you that a notice was available in your Marketplace Inbox in April 2015.

Furthermore, you testified that when you did go to your Marketplace Inbox to view notices, you were unable to open any of the notices without receiving an error message.

The record indicates that you did eventually enroll your child into a Child Health Plus plan; however, that plan was not effective until July 1, 2015. If the electronic communication failed, the Marketplace was required to send a notice by regular mail within three business days of the date of the failed electronic communication if the electronic communication was undeliverable. The record does not contain any evidence on behalf of the Marketplace as to whether or not the electronic communications sent to you were undeliverable.

Without evidence on behalf of the Marketplace that you were given proper electronic notice or proper written notice, the notices in question must be rescinded and/or modified.

You were entitled to notice of the need to select a health plan for your child, and there is no evidence to show that you received the emails which alerted you to documents having been uploaded to your account. Therefore, it is found that had you received the proper notice, your child would have been successfully enrolled into a Child Health Plus plan effective June 1, 2015.

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).

Decision

The July 29, 2015 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan is effective June 1, 2015.

Your case is RETURNED to the Marketplace to effectuate this change to your Marketplace account.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your child is enrolled in his Child Health Plus plan effective June 1, 2015.

You will be responsible for any premium owed for that month.

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
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P.O. Box 11729
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Summary

The July 29, 2015 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan is effective June 1, 2015.

Your case is RETURNED to the Marketplace to effect this change to your Marketplace account.

Your child is enrolled in his Child Health Plus plan effective June 1, 2015.

You will be responsible for any premium owed for that month.

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:

