



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004259

[REDACTED]

Dear [REDACTED],

On November 4, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 10, 2015 eligibility determination and disenrollment notice, and August 11, 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 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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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine that your child was no longer eligible to enroll through Child Health Plus, effective July 31, 2015?

Did the Marketplace properly determine that your child's reenrollment in her health plan through Child Health Plus began on September 1, 2015, instead of August 1, 2015?

Procedural History

On December 12, 2014, the Marketplace issued a notice of eligibility determination stating that your child was eligible to enroll through Child Health Plus with a \$15.00 premium, effective January 1, 2015.

Also on December 12, 2014, the Marketplace issued a notice confirming your child's enrollment in Child Health Plus, with UnitedHealthcare Community Plan. The notice further stated that your child's coverage could start as early as January 1, 2015, if the first month's premium is paid.

On June 25, 2015, the Marketplace issued a notice of eligibility redetermination stating that your child was conditionally eligible to enroll through Child Health Plus with a \$15.00 premium per month, effective August 1, 2015. This document was returned to the Marketplace on July 2, 2015 and marked as "Return to Sender."

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).

Multiple other notices were returned to the Marketplace as undeliverable.

On July 10, 2015, the Marketplace issued a notice of eligibility determination stating that your child was no longer eligible for Child Health Plus because notices sent by the Marketplace to the mailing address you provided were returned to the Marketplace as undeliverable. You were requested to update your mailing address so that your child could remain eligible for health insurance coverage through the Marketplace. Your child's eligibility ended effective July 31, 2015.

Also on July 10, 2015, the Marketplace issued a disenrollment notice stating that your child's enrollment with UnitedHealthcare Community Plan would end, effective July 31, 2015 because he was no longer eligible to enroll in health insurance through New York State of Health.

On August 10, 2015, the Marketplace received your modified application for health insurance, which included an updated residential address, and prepared a preliminary eligibility determination, stating that your child was eligible to enroll through Child Health Plus with a \$15.00 premium, effective September 1, 2015.

Also on August 10, 2015, you spoke with the Marketplace's Account Review Unit and appealed that preliminary determination insofar as it resumed your child's Child Health Plus eligibility on September 1, 2015, and not August 1, 2015.

On August 11, 2015, the Marketplace issued a notice of eligibility determination stating that your child was eligible to enroll through Child Health Plus with a \$15.00 premium, effective September 1, 2015.

Also on August 11, 2015, the Marketplace issued a notice confirming your child's Child Health Plus enrollment with UnitedHealthcare Community Plan. The notice further stated that your child's coverage could start as early as September 1, 2015, if the first month's premium is paid.

On November 2, 2015, you were scheduled for a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit of NY State of Health. At that time, you requested an adjournment of the scheduled hearing and your request was granted.

On November 4, 2015, you had a telephone hearing with a Hearing Officer from the Appeals Unit of NY State of Health. 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, and the record reflects, that you are appealing only your child's eligibility.
- 2) You testified that, at the time of the December 11, 2014 application, your family resided at:

[REDACTED]

- 3) The record reflects that the June 25, 2015 eligibility determination notice was addressed to:

[REDACTED]

The record reflects that this notice was returned to the Marketplace on July 2, 2015 and marked as "Return to Sender."

- 4) You testified that your family moved in May 2015. You further testified that your family currently resides at:

[REDACTED]

- 5) You testified that you made multiple attempts to contact the Marketplace between May and July 2015 to update the address listed in your Marketplace account, but was unable to successfully update your address because the calls were repeatedly disconnected.

- 6) The record reflects that your application was updated on June 24, 2015 by "[REDACTED]." According to this application, your family's residential address was changed to:

[REDACTED]

The record further reflects that, when asked if this was your legal, fixed and permanent address for everyone, the answer was "No" (NYSOH Exhibit 1, November 4, 2015).

- 7) The record reflects that [REDACTED] is the Application Counselor currently listed as your authorized Account Representative as of September 30, 2014.
- 8) The record reflects that your residential address was successfully updated on August 10, 2015. The record further reflects that your child was re-enrolled into a Child Health Plus through UnitedHealthcare Community Plan on that same day. Your child's re-enrollment was effective September 1, 2015.
- 9) You testified that you incurred medical bills for your child during the month of August 2015.

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

Applicable Law and Regulations

Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the federal poverty level (FPL) and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

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)).

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)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your child was no longer eligible for Child Health Plus (CHP), effective July 31, 2015.

You testified that your family moved in May 2015, and currently resides at:

[REDACTED]

You further testified that you made multiple attempts to contact the Marketplace between May and July 2015 to update your account with your new address, but were unsuccessful.

The record reflects that your new address was added to your Marketplace account on June 24, 2015 by your Application Counselor, [REDACTED]. However, the record further reflects that, when asked if this address was your legal, fixed and permanent address for everyone in your household, the response was marked as “No.”

Therefore, according to the June 25, 2015 eligibility determination notice, your address continued to be listed as:

[REDACTED]

This notice was returned to the Marketplace as undeliverable.

Generally, a child’s CHP period of eligibility begins on the first day of the month during which a child is eligible child and enrolled and ends 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.

The credible evidence in the record supports a finding that you made an attempt to update your account to reflect your new address on June 24, 2015. However, due to an error made by [REDACTED], your address was never marked as your legal, fixed and permanent address for your household.

The credible evidence in the record further supports a finding that your child has continuously resided in New York State, at the respective addresses listed in your account. Because you did provide the correct updated address on your account as of June 24, 2015, but an error on the part of your Application Counselor resulted in a failure to successfully change your permanent address, it is determined you’re your child’s coverage was improperly terminated.

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).

Therefore, the Marketplace's July 10, 2015 eligibility determination is **RESCINDED**.

Since your child was disenrolled from her CHP plan in error, the subsequent CHP eligibility determination issued on August 11, 2015 is **MODIFIED** to state that your child is eligible to enroll through CHP with a \$15.00 premium per month, effective August 1, 2015.

Your case is **RETURNED** to the Marketplace to reinstate your child's CHP enrollment with UnitedHealthcare Community Plan, effective September 1, 2015.

Decision

The July 10, 2015 eligibility determination is **RESCINDED**.

The August 11, 2015 eligibility determination notice is **MODIFIED** to state that your child is eligible to enroll through Child Health Plus with a \$15.00 premium per month, effective August 1, 2015.

Your case is **RETURNED** to the Marketplace to reinstate your child's Child Health Plus enrollment with UnitedHealthcare Community Plan, effective September 1, 2015.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your child remains eligible to enroll through Child Health Plus with a \$15.00 premium per month, effective August 1, 2015.

Your child's enrollment through Child Health Plus with UnitedHealthcare Community Plan will be reinstated effective August 1, 2015.

You are responsible for the premium due for your child's coverage for the month of August 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.

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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 July 10, 2015 eligibility determination is **RESCINDED**.

The August 11, 2015 eligibility determination notice is **MODIFIED** to state that your child is eligible to enroll through Child Health Plus with a \$15.00 premium per month, effective August 1, 2015.

Your case is **RETURNED** to the Marketplace to reinstate your child's Child Health Plus enrollment with UnitedHealthcare Community Plan, effective September 1, 2015.

Your child remains eligible to enroll through Child Health Plus with a \$15.00 premium per month, effective August 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).

Your child's enrollment through Child Health Plus with UnitedHealthcare Community Plan will be reinstated effective August 1, 2015.

You are responsible for the premium due for your child's coverage for the month of August 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

