



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: AP000000004267

[REDACTED]

Dear [REDACTED],

On December 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 18, 2015, July 27, 2015, and November 10, 2015 eligibility determinations.

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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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's coverage through Child Health Plus began on September 1, 2015, instead of August 1, 2015?

Did the Marketplace properly disenroll your child from their Child Health Plus plan on July 31, 2015, and again on November 30, 2015 for failure to provide proof of her citizenship status?

Procedural History

On March 18, 2015, the Marketplace received your household's application for health insurance.

On March 19, 2015, the Marketplace issued an eligibility determination notice stating that your daughter was conditionally eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective May 1, 2015. The notice further stated that her coverage would be effective shortly after the first premium payment was received by the health plan. You were asked to provide proof of your child's citizenship status by June 16, 2015.

On July 20, 2015, a notice was issued by the Marketplace stating that you did not provide the information requested to confirm your child's citizenship status by the requested deadline. Your child's eligibility would end effective July 31, 2015.

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That same day a disenrollment notice was issued terminating your child's coverage under Hudson Health Plan effective July 31, 2015.

On July 27, 2015, your household's eligibility was redetermined and again found your child conditionally eligible to enroll in Child Health Plus at a cost of \$9.00 per month effective September 1, 2015. You were asked to provide proof of her citizenship status by October 25, 2015.

That same day you enrolled your child in a Child Health Plus plan effective September 1, 2015.

On August 11, 2015, you spoke to the Marketplace's Account Review Unit and appealed the eligibility determination notice insofar as it began your coverage under your Child Health Plus effective September 1, 2015 instead of August 1, 2015.

On November 11, 2015, the Marketplace issued a determination finding your child ineligible to remain enrolled in her Child Health Plus plan effective November 30, 2015.

On December 8, 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, and the record reflects, that you are appealing only your child's eligibility.
- 2) You testified that you believed your daughter's coverage under Child Health Plus would start August 1, 2015 and not September 1, 2015.
- 3) You testified that you received the Marketplace's notice requesting documentation confirming your daughter's citizenship, but that you did not respond to it by the deadline of June 16, 2015.
- 4) You testified that you receive your notices via regular mail delivery.
- 5) You testified and the record reflects that you uploaded a copy of your daughter's passport on July 18, 2015. Document [REDACTED].

- 6) You testified that your daughter is a United States citizen by adoption. Her place of birth is the [REDACTED]. However, upon adoption she was granted status as a United States citizen.
- 7) There is no evidence in the record that the Marketplace received your daughter's citizenship documentation before June 16, 2015.
- 8) After you appealed your daughter's Child Health Plus plan and before your scheduled hearing, your daughter was again disenrolled from her Child Health Plus plan effective November 30, 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 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)). (CHIP State Plan Amendment (SPA) NY-14-0005, as approved by the US Department of Health and Human Services, February 3, 2015).

Citizenship and Immigration Status Child Health Plus

Child Health Plus must be provided to otherwise eligible citizens or nationals of the United States and who have provided satisfactory documentary evidence of citizenship status which has been verified with the Department of Homeland Security (DHS) as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C §1641) (42 CFR § 435.406 (a)(2)(i)).

If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)) (42 § CFR 457.320 (a)(6)) (CHIP State Plan Amendment (SPA) NY-14-0005, as approved by the US Department of Health and Human Services, February 3, 2015).

Legal Analysis

The first issue is whether the Marketplace properly determined that your child's enrollment in her Child Health Plus plan was effective September 1, 2015 and not August 1, 2015.

The record indicates that you submitted your daughter's updated application for health insurance on July 27, 2015 and that you enrolled her 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 after the 15th of the month, benefits are provided on "the first day of the subsequent month."

On July 27, 2015, your household's eligibility was redetermined and again found your child conditionally eligible to enroll in Child Health Plus at a cost of \$9.00 per month effective September 1, 2015.

On July 28, 2015, the Marketplace issued a notice confirming your daughter's Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$9.00 and her coverage could start as early as September 1, 2015, if you pay your first month premium.

Since your daughter's application was filed on July 27, 2015, her Child Health Plus plan properly took effect on September 1, 2015 and not August 1, 2015. Therefore the Marketplace's July 27, 2015 eligibility determination notice is **AFFIRMED**.

The second issue is whether the Marketplace properly disenrolled your Child from their Child Health Plus plan effective July 31, 2015, and again November 30, 2015 for failure to provide requested citizenship status documentation.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that their citizenship status is satisfactory.

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).

If the Marketplace cannot verify an individual's citizenship status, it must provide the individual a period of 90 days, from the date notice is received, to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

In the eligibility determination issued on March 19, 2015, you were advised that your child's eligibility was only conditional, and that you needed to confirm her citizenship status before June 16, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation before the deadline of June 16, 2015. You testified that you received the Marketplace's notice via regular mail requesting documentation confirming your daughter's citizenship. However, you did not respond to it by the deadline of June 16, 2015.

If the Marketplace remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation was not received within the 90-day period, the Marketplace was required to redetermine your daughter's eligibility without verification of her citizenship status. As a result, the Marketplace properly determined that she could not remain enrolled in a Child Health Plus plan through NY State of Health effective July 31, 2015 because you had not provided the information requested by the Marketplace.

Therefore, the Marketplace's July 18, 2015 eligibility determination is correct and is AFFIRMED.

However, you testified and the record reflects that you uploaded a copy of your daughter's passport on July 18, 2015. Document [REDACTED] On November 11, 2015, the Marketplace issued another determination finding your child ineligible to remain enrolled in her Child Health Plus plan effective November 30, 2015. You provided acceptable proof of your daughter's citizenship status by the Marketplace's July 27, 2015 eligibility determination stated deadline of October 25, 2015. Therefore the November 10, 2015 eligibility determination must be RESCINDED.

Decision

The July 27, 2015 eligibility determination notice is AFFIRMED.

The July 18, 2015 eligibility determination to disenroll your child effective July 31, 2015 is correct and is AFFIRMED.

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).

The November 10, 2015 eligibility determination to disenroll your child effective November 30, 2015 is RESCINDED.

Effective Date of this Decision: January 08, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's level of financial assistance.

The effective date of your child's Child Health Plus plan is September 1, 2015.

Your child's disenrollment on November 30, 2015 from her Child Health Plus plan must be corrected and any premiums you are responsible for must be satisfied for coverage to remain in effect.

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 July 27, 2015 eligibility determination notice is **AFFIRMED**.

The July 18, 2015 eligibility determination to disenroll your child effective July 31, 2015 is correct and is **AFFIRMED**.

The November 10, 2015 eligibility determination to disenroll your child effective November 30, 2015 is **RESCINDED**.

This decision does not change your child's level of financial assistance.

The effective date of your child's Child Health Plus plan is September 1, 2015.

Your child's disenrollment on November 30, 2015 from her Child Health Plus plan must be corrected and any premiums you are responsible for must be satisfied for coverage to remain in effect.

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:

