



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: AP000000004277

[REDACTED]

Dear [REDACTED],

On November 9, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 6, 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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Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
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Issue

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

Did the Marketplace properly determine that enrollment in a Child Health Plus plan for your four youngest children was effective September 1, 2015?

Procedural History

On June 4, 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 19, 2014, an eligibility determination notice was issued stating that your children were eligible for Medicaid effective August 1, 2014 and that their enrollment in their Medicaid Managed Care plan would begin on October 1, 2014.

On June 12, 2015, the Marketplace issued a notice that it was time to renew your children's health insurance. The notice stated that your children could not be enrolled in their current health plan. The notice further stated that your four youngest children qualified for coverage under Child Health Plus, each with a \$9.00 per month premium, effective August 1, 2015 and that you needed to select a new health plan for them before July 15, 2015 for that plan to be effective August 1, 2015.

On July 18, 2015, the Marketplace issued a disenrollment notice stating that your four youngest children's Medicaid coverage would end effective July 31, 2015.

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On August 6, 2015 the Marketplace issued an eligibility determination notice stating that your four youngest children were eligible to enroll in Child Health Plus with a \$30.00 premium each per month, effective September 1, 2015.

Also on August 6, 2015 the Marketplace issued an enrollment confirmation notice stating that your four youngest children's enrollment in their Child Health Plus plan is effective September 1, 2015.

On August 11, 2015 you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as your four youngest children's Child Health Plus plan was effective September 1, 2015 and not August 1, 2015.

On November 9, 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 four youngest children.
- 2) You testified, and a letter dated June 4, 2014 confirms, that you were supposed to receive all information from the Marketplace via electronic mail.
- 3) You testified that you did not want to receive notices via electronic mail and that a representative from the Marketplace set your account up with this preference.
- 4) On June 12, 2015 the Marketplace issued a notice informing you that you needed to select a Child Health Plus plan for your children before July 15, 2015 for them to have coverage effective August 1, 2015.
- 5) You testified that you did not receive an email alerting you that a notice was available in your Marketplace inbox in June 2015.
- 6) Your four youngest children were enrolled into a Child Health Plus plan and given a September 1, 2015 effective date.

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

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Applicable Law and Regulations

Renewal

In general, the Marketplace must review Medicaid eligibility once every twelve 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, a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month of the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month (see e.g. SPA Amendment NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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)).

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Legal Analysis

The issue is whether the Marketplace properly determined that your four youngest children's enrollment in their Child Health Plus plan was effective August 1, 2015.

Generally, the Marketplace must redetermine a qualified individual's eligibility once every twelve 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 June 12, 2015, the Marketplace issued a notice that it was time to renew your children's health insurance. The notice stated that your four youngest children could not be enrolled in their current health plan. The notice further stated that your four youngest children now qualify for coverage under Child Health Plus effective August 1, 2015 and that you needed to select a new health plan for them before July 15, 2015 for that plan to be effective August 1, 2015.

Because there was no timely response to this notice, your children were not enrolled into a Child Health Plus plan effective August 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 June 4, 2014 confirms, that your account was set 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 June 2015. Furthermore, you testified that you did not want to receive notices via electronic mail and that a representative from the Marketplace set your account up with this preference.

The record indicates that you did eventually enroll your four youngest children into a Child Health Plus plan, however that plan was not effective until September 1, 2015.

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

Decision

The August 6, 2015 enrollment confirmation notice is MODIFIED to state that your four youngest children's enrollment in their Child Health Plus plan is effective August 1, 2015.

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

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

Your four youngest children are enrolled in their Child Health Plus plan effective August 1, 2015.

You must pay any premiums that you may owe for your children's coverage in the month of August.

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 August 6, 2015 enrollment confirmation notice is MODIFIED to state that your four youngest children's enrollment in their Child Health Plus plan is effective August 1, 2015.

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

Your four youngest children are enrolled in their Child Health Plus plan effective August 1, 2015.

You must pay any premiums that you may owe for your children's coverage in the month of August.

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:

