



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

Notice of Decision

Decision Date: December 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004298

[REDACTED]

Dear [REDACTED],

On November 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 eligibility determination notice and the July 31, 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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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 in a Child Health Plus plan, effective July 31, 2015?

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

Procedural History

On March 10, 2015 you added your newborn child to your Marketplace account.

On March 11, 2015 the Marketplace issued a notice of eligibility determination stating that your child was conditionally eligible to enroll through Child Health Plus with a \$30.00 per month premium, effective April 1, 2015. The notice further directed you to provide documentation confirming your child's citizenship status and Social Security number before June 8, 2015.

Also on March 11, 2015 the Marketplace issued a notice confirming your child's enrollment in a Child Health Plus plan, which could begin as early as April 1, 2015 if you paid the first month's premium.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that your child was no longer eligible for Child Health Plus through the Marketplace because you had not confirmed his citizenship status or Social Security number. His eligibility for coverage ended effective July 31, 2015.

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Also on July 19, 2015 the Marketplace issued a disenrollment notice stating that your child's enrollment in his Child Health Plus plan was terminated effective July 31, 2015.

On July 30, 2015 the Marketplace received your updated application for health insurance.

On July 31, 2015 the Marketplace issued a notice of eligibility determination stating that your child was conditionally eligible to enroll through Child Health Plus with a \$30.00 per month premium, effective September 1, 2015. The notice further requested that you provide documentation confirming your child's citizenship status and Social Security number before October 28, 2015.

Also on July 31, 2015 the Marketplace issued a notice confirming your child's enrollment in a Child Health Plus plan which could begin as early as September 1, 2015 if you paid the first month's premium.

On August 12, 2015, you spoke with the Marketplace's Account Review Unit and appealed your child's lapse of Child Health Plus coverage for the month of August 2015.

On November 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) According to the application that was submitted on March 10, 2015, your child did not have a Social Security number because he needed to apply for one. Additionally, your child's name was listed on the application as "No Name Given."
- 2) The Marketplace issued a notice on March 11, 2015 stating that your child was conditionally eligible to enroll in a Child Health Plus plan and that you needed to provide documentation confirming his citizenship status and Social Security number before June 8, 2015.
- 3) You testified, and your Marketplace account confirms, that you elected to receive notifications via regular mail.
- 4) There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

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- 5) You testified that you did not receive any notice from the Marketplace telling you that you needed to submit information in order to confirm your child's social security number and citizenship status.
- 6) There is no evidence in the record that the Marketplace received your child's citizenship documentation or Social Security number before June 8, 2015.
- 7) According to the application that was submitted on July 30, 2015, your child did not have a Social Security number because he needed to apply for one. Additionally, your child's first name was updated.
- 8) On July 30, 2015 your child was reenrolled into his Child Health Plus plan with an effective date of September 1, 2015.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)). Furthermore, the Marketplace must require an applicant who has a Social Security number to provide such a number (45 CFR § 155.310(a)(3)(i), *see also* Model State Children's Health Insurance Program Plan, Section 4.1.9).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the validation of Social Security numbers and the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a),(b), (c)).

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 to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered 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)).

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)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your child was no longer eligible to enroll in Child Health Plus through the Marketplace, effective July 31, 2015.

According to the application that was submitted on March 10, 2015, your child did not have a Social Security number because he needed to apply for one. Additionally, your child’s name was listed on the application as “No Name Given”

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that if they have a Social Security number they have provided it and that their citizenship status is satisfactory.

If the Marketplace cannot verify an individual’s citizenship status or validate their Social Security number, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on March 11, 2015 you were advised that your son’s eligibility was only conditional, and that you needed to confirm his citizenship status and Social Security number before June 8, 2015.

The record reflects that the Marketplace did not receive the requested citizenship documentation or a valid Social Security number before the deadline.

You testified that you did not receive any notice from the Marketplace telling you that you needed to submit information in order to confirm your son’s eligibility. You testified, and your Marketplace account confirms, that you elected to receive

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notifications via regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that the Marketplace properly notified you of an inconsistency in your account and that you did not submit the requested information before the deadline.

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 and social security number was not received within the 90 day period, the Marketplace was required to redetermine your child's eligibility without verification of his citizenship status or social security number. As a result, the Marketplace properly determined that your child was no longer eligible to enroll in Child Health Plus through NY State of Health effective July 31, 2015 because you did not provide the information requested by the Marketplace.

Therefore, the Marketplace's July 19, 2015 eligibility determination is correct and is AFFIRMED.

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

The record indicates that you updated your application for health insurance on July 30, 2015. In that application, your child still did not have a Social Security number because he needed to apply for one, however, your child's first name was updated. As a result of this application, your child was again found conditionally eligible for Child Health Plus and was reenrolled into his Child Health Plus plan effective September 1, 2015.

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 31, 2015, the Marketplace issued a notice confirming your child's Child Health Plus plan selection. The notice stated that his coverage could start as early as September 1, 2015, if you pay your first month's premium.

Since your application was updated on July 30, 2015, his Child Health Plus plan should have taken effect on October 1, 2015. However, since the Marketplace issued a notice stating that it could start as early as September 1, 2015 it was reasonable for you to rely on that notice so it is AFFIRMED.

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Decision

The July 19, 2015 eligibility determination notice is AFFIRMED.

The July 31, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 21, 2015

How this Decision Affects Your Eligibility

Your child is not eligible for Child Health Plus coverage in the month of August 2015.

In order to confirm your child's eligibility please update your Marketplace account with his Social Security number and citizenship status as requested in the July 31, 2015 notice of eligibility determination.

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:
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- By fax: 1-855-900-5557

Summary

The July 19, 2015 eligibility determination notice is AFFIRMED.

The July 31, 2015 enrollment confirmation notice is AFFIRMED.

Your child is not eligible for Child Health Plus coverage in the month of August 2015.

In order to confirm your child's eligibility please update your Marketplace account with his social security number and citizenship status as requested in the July 31, 2015 notice of eligibility determination.

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:

