



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

Notice of Decision

Decision Date: February 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004554

[REDACTED]

Dear [REDACTED],

On February 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 26, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004554

[REDACTED]

Issue

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

Did the Marketplace properly determine that your enrollment in the Medicaid managed care plan (CDPHP) should be effective August 1, 2015?

Procedural History

On November 30, 2013, the Marketplace issued a notice confirming that “you have chosen to receive all information from the New York Marketplace electronically.”

On May 14, 2015, the Marketplace issued a notice stating that it was time for you to renew your health insurance. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by June 15, 2015 or you might lose the financial assistance you were currently receiving.

On June 17, 2015, the Marketplace issued a notice stating that you had not responded to the renewal notice and that you were therefore no longer eligible for financial assistance and cannot enroll in a qualified health plan at full cost through the Marketplace, effective June 30, 2015.

On June 18, 2015, the Marketplace issued a disenrollment notice stating that your coverage with CDPHP would end effective June 30, 2015.

On June 25, 2015, your Marketplace account was updated.

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On June 26, 2015 the Marketplace issued an eligibility redetermination notice stating that you were eligible for Medicaid, effective as of June 1, 2015.

On the same day the Marketplace issued an enrollment confirmation notice that as of June 25, 2015, you are enrolled in CDPHP with an enrollment effective date of August 1, 2015.

On August 31, 2015, you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your coverage under your Medicaid Managed Care plan on August 1, 2015, instead of July 1, 2015.

On December 29, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The Hearing Officer was unable to reach you at the telephone number you provided to the Marketplace Account Review Unit.

On December 30, 2015, the Marketplace Appeals Unit issued you a Notice of Dismissal because you failed to appear for your scheduled telephone hearing on December 29, 2015.

On January 5, 2016, you faxed a letter to the Marketplace requesting that your dismissal be vacated. Your request to vacate the Marketplace Appeals Unit dismissal was granted, and your hearing was rescheduled for February 11, 2016.

On February 11, 2016, 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 supports the following findings of fact:

1. You are applying for health insurance for yourself.
2. On November 30, 2013, the Marketplace issued a notice confirming that "you have chosen to receive all information from the New York Marketplace electronically.
3. On May 14, 2015, the Marketplace issued a notice stating that it was time for you to renew your health insurance. That notice stated that you needed to update your account by June 15, 2015 or you might lose the financial assistance you were currently receiving.
4. On June 17, 2015, the Marketplace issued a notice stating that you had not responded to the renewal notice and that you were therefore no longer

eligible for financial assistance and cannot enroll in a qualified health plan at full cost through the Marketplace, effective June 30, 2015.

5. According to your Marketplace account, you were enrolled in a Medicaid Managed Care (CDPHP) until June 30, 2015.
6. You testified that you did not receive any notice from the Marketplace regarding the need to renew your information to ensure that your coverage would not be interrupted, either by mail or electronically.
7. According to your Marketplace account, you updated the information in your Marketplace Account on June 25, 2015.
8. On June 26, 2016, the Marketplace issued an enrollment confirmation notice that as of June 25, 2015, you are enrolled in CDPHP with an enrollment effective date of August 1, 2015.
9. You testified that you have an outstanding medical bill of \$300.00 because you did not have CDPHP health insurance coverage for the month of July 2015.

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

Applicable Law and Regulations

Medicaid 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)).

Electronic Notices

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(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918).

Medicaid Managed Care Start Date

Medicaid managed care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see § 1115 Soc. Sec. Act; N.Y. Soc. Serv. Law § 364-j(1)(c); 18 NYCRR 360-10.3(h)).

Legal Analysis

The issue is whether the Marketplace properly determined that your enrollment in your Medicaid managed care plan (CDPHP) was effective August 1, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually, and must provide the individual with notice of the need for the redetermination.

The Marketplace's May 14, 2015 renewal notice stated that there was not enough information to determine whether you would be eligible for financial assistance for health insurance coverage, and that you needed to supply additional information by June 15, 2015 or your financial assistance might end.

Because there was no timely response to this notice, your enrollment in your Medicaid managed care plan was terminated effective June 30, 2015.

However, you credibly testified that you received no notice advising you of the need to update your account, either electronically or by mail.

On June 25, 2015, you spoke to the Marketplace and verbally updated the information in your Marketplace account.

On June 26, the Marketplace issued an eligibility redetermination notice that stated that you were eligible for Medicaid effective June 1, 2015.

Since you elected to receive communications from the Market place electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an email or other electronic communication alerting you that a notice had been posted to your account.

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 the electronic communications were undeliverable. The record also does not contain evidence that the notices were sent by regular mail within three business days of the date of a failed electronic communication. Without evidence on behalf of the Marketplace, it must be presumed that you were not given proper notice of the actions planned or contemplated by the Marketplace.

Therefore, it is found that the Marketplace improperly disenrolled you from your Medicaid managed care plan without the proper notice. Since your eligibility for Medicaid never lapsed, you would have been reenrolled if your plan not been terminated, the June 26, 2015 enrollment confirmation notice is MODIFIED to state that the enrollment in your managed care plan was effective July 1, 2015.

Decision

The June 26, 2015 enrollment confirmation notice is MODIFIED to state that your enrollment with CDPHP will begin July 1, 2015.

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

Effective Date of this Decision: February 29, 2016

How this Decision Affects Your Eligibility

You are enrolled in your Medicaid Managed Care plan effective July 1, 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.

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:

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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Summary

The June 26, 2015 enrollment confirmation notice is MODIFIED to state that your enrollment with CDPHP will begin July 1, 2015.

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

You are enrolled in your Medicaid managed care plan effective July 1, 2015.

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:

