



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

Notice of Decision

Decision Date: February 2, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004609

[REDACTED]

Dear [REDACTED],

On January 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 17, 2015 eligibility determination and August 28, 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 and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (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 disenroll your son [REDACTED] from his Child Health Plus coverage, effective August 31, 2015?

Did the Marketplace properly determine that your son's reenrollment in coverage through Child Health Plus was effective October 1, 2015, instead of September 1, 2015?

Procedural History

On July 16, 2015, the Marketplace issued a notice that it was time to renew your household's 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 August 15, 2015 or your family might lose the financial assistance it was receiving.

No updates were made to your account by August 15, 2015.

On August 16, 2015, the Marketplace issued a notice of eligibility redetermination stating, in relevant part, that your son [REDACTED] was no longer qualified to enroll through NY State of Health because you had not responded to the renewal notice and had not completed your renewal within the required timeframe. The notice confirmed that his eligibility would end on August 31, 2015.

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On August 27, 2015, the Marketplace received your updated application for health insurance.

On August 28, 2015, the Marketplace issued an eligibility determination notice stating, in relevant part, that your son was eligible to enroll in coverage through Child Health Plus with a \$9.00 monthly premium, effective October 1, 2015. The notice further stated that his coverage would be effective shortly after the first premium payment was received by the health plan.

Also on August 28, 2015, the Marketplace issued a notice confirming your son's Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$9.00 and his coverage could start as early as October 1, 2015, if you paid the first month's premium.

On September 3, 2015, you spoke to the Marketplace's Account Review Unit and appealed (1) the August 16, 2015 eligibility determination insofar as your son's CHP coverage was terminated effective August 31, 2015 and (2) the August 28, 2015 enrollment confirming notice as it began your son's coverage on October 1, 2015, and not September 1, 2015.

On January 6, 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 support the following findings of fact:

- 1) You testified that you are appealing only your son's eligibility.
- 2) Your son was disenrolled from his Child Health Plus (CHP) coverage effective August 31, 2015 as a result of your not having revised your application by August 15, 2015. An eligibility determination was issued by the Marketplace on August 16, 2015 to this effect.
- 3) You testified that you were unaware that you had to reapply to the Marketplace to renew your son's coverage.
- 4) You testified that you were not sure on whether you elected to receive correspondence from the Marketplace electronically or through U.S. Mail. Your application reflects that you elected to receive all correspondence by regular U.S. Mail.
- 5) You testified that you did receive some e-mails from the Marketplace, but those e-mails did not have any content, rather directing you to the

Marketplace's website to review your notification. You further testified that both you and your accountant experienced difficulty in accessing your Marketplace account.

- 6) You testified that you called the Marketplace once to attempt to reset your account login and password, but still had difficulty accessing your account notifications.
- 7) You testified that while you did not receive the July 17, 2015 renewal notice, you did receive the August 16, 2015 notice stating that your son's eligibility for CHP coverage would end August 31, 2015.
- 8) You confirmed that your mailing address is: [REDACTED]
[REDACTED] You also confirmed that your e-mail address was accurately reflected in your application as [REDACTED]
- 9) You testified that after your son was disenrolled from his CHP plan, you submitted a new application on or about August 27, 2015. At this time you reenrolled your son in the same CHP plan through the Marketplace.
- 10) Your son's CHP coverage start date was determined to be October 1, 2015.
- 11) You testified that you were seeking to backdate your son's coverage to September 1, 2015 because you had incurred out-of-pocket expenses during September 2015 as a result of follow-up and physical therapy appointments after a transplant procedure.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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 issue under review is whether the Marketplace properly determined that your son's eligibility for Child Health Plus (CHP) coverage ended on August 31, 2015.

The Marketplace must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. The Marketplace must issue a renewal notice that contains the individual's eligibility. If an individual does not respond to this notice, the Marketplace must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On July 16, 2015, the Marketplace issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not your son qualified for financial help paying for health coverage. You were asked to update the information in your account by August 15, 2015 or the financial help your son was receiving might end.

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You testified that you did not receive any notices via e-mail or regular U.S. Mail informing you that your application needed to be updated.

The record indicates, however, that the August 16, 2015 renewal notice was issued to the mailing address you have listed on your Marketplace account, and there is no indication that any of the notices were returned to the Marketplace as undeliverable.

Since the Marketplace had not received any updated information from you by the time of the deadline stated in the renewal notice, on August 16, 2015 an eligibility redetermination notice was issued that stated that your son was no longer eligible for coverage through CHP, effective August 31, 2015, or enroll for coverage through the Marketplace generally. This finding was necessitated by the federal regulations noted above and, therefore, the Marketplace's August 16, 2015 eligibility determination is AFFIRMED.

The second issue is whether the Marketplace properly determined that your son's enrollment in his CHP plan was effective October 1, 2015.

The record indicates that you submitted your son's revised application for health insurance on August 27, 2015 and that you enrolled him 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 August 28, 2015, the Marketplace issued an eligibility determination notice stating that your son was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective October 1, 2015.

Also on August 28, 2015, the Marketplace issued a notice confirming your son's Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$9.00 and his coverage could start as early as October 1, 2015, if you pay your first month premium.

Since your son's application was filed on August 27, 2015, his CHP plan properly took effect on October 1, 2015.

Decision

The August 16, 2015 eligibility determination notice is AFFIRMED.

The August 28, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 2, 2016

How this Decision Affects Your Eligibility

This decision does not change your son's eligibility; he was properly disenrolled from his coverage through Child Health Plus effective August 31, 2015.

The effective date of your child's CHP plan is October 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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Summary

The August 16, 2015 eligibility determination notice is AFFIRMED.

The August 28, 2015 enrollment confirmation notice is AFFIRMED.

This decision does not change your son's eligibility.

Your son was properly disenrolled from his Child Health Plus (CHP) plan effective August 31, 2015.

The effective date of your child's CHP plan is October 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

