



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

Notice of Decision

Decision Date: January 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004736

[REDACTED]

Dear [REDACTED],

On December 16, 2015 you appeared by telephone at a hearing on your appeal regarding the June 1, 2015 cancellation date and the July 1, 2015 enrollment start date of your child's Child Health Plus health plans.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

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

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004736

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Issue

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

Did the Marketplace properly cancel your child's Child Health Plus (Fidelis Care) health plan effective June 1, 2015?

Did the Marketplace properly start your child's Child Health Plus (Hudson Health) health plan effective July 1, 2015?

Procedural History

On May 22, 2015 the Marketplace issued an eligibility determination notice that your child was eligible to enroll through Child Health Plus with a \$45.00 premium per month effective July 1, 2015.

On the same day the Marketplace issued an enrollment notice confirming your child's enrollment as of May 21, 2015. The notice states that your child will be enrolled in Fidelis Care and coverage could start as early as July 1, 2015.

On May 30, 2015 the Marketplace issued a cancellation notice confirming that you requested to cancel your child's insurance coverage with Fidelis Care on May 29, 2015.

On September 18, 2015 you spoke to the Marketplace Account Review Unit and requested an appeal insofar as the cancellation date of your child's Child Health Plus (Fidelis Care) health plan and the enrollment start date of your child's Child Health Plus (Hudson Health) health plan.

On December 16, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, the appellant gave the

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Hearing Officer permission to request and listen to the recorded conversations between the appellant and the Marketplace's Customer Service.

The Hearing Officer from the Marketplace Appeals Unit requested and received the recording of the May 29, 2015 conversation between the appellant and the Marketplace customer service representative. That recording has been entered into the record as "Appellant Exhibit A." The record is now complete and closed.

Findings of Fact

A review of the record supports the following finding of fact:

1. You are appealing your seventeen-year-old child's cancellation date of their Child Health Plus (Fidelis Care) health plan and the enrollment start date of their Child Health Plus (Hudson Health) health plan.
2. According to your Marketplace account's enrollment history, your child was enrolled in Child Health Plus (Fidelis Care) with a start date of June 1, 2015.
3. On May 29, 2015 you contacted the Marketplace to change your child's Child Health Plus health plan from Fidelis Care to Hudson Health. During the conversation with the Marketplace customer service representative, you were told that you child would have Fidelis Care for the month of June 2015 and the Hudson Health plan would begin July 1, 2015 (Appellant Exhibit A).
4. On May 30, 2015 the Marketplace issued a cancellation notice confirming that you requested to cancel your child's insurance coverage with Fidelis Care on May 29, 2015.
5. According to your Marketplace account's enrollment history, your child's Child Health Plus (Fidelis Care) coverage ended June 1, 2015.
6. According to your Marketplace account's enrollment history, your child's Hudson Health coverage began on July 1, 2015.
7. You testified that your child was not covered for the month of June 2015 and has outstanding medical bills because of the gap in coverage.

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

Applicable Law and Regulations

Child Health Plus Disenrollment Date

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date if requested by the enrollee (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.2)).

Child Health Plus Start Date

"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 cancelled your child's Fidelis Care health plan on June 1, 2015.

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date, if requested by the enrollee.

According to the record, you contacted the Marketplace on May 29, 2015 to change your child's Child Health Plus health plan from Fidelis Care to Hudson Health. During the conversation, you requested to have your child's Fidelis Care coverage to continue until the Hudson Health coverage began. The Marketplace customer service representative confirmed that your child would have Fidelis

Care for the month of June 2015 and the Hudson Health plan would begin July 1, 2015.

Therefore, your child's Fidelis Care plan was improperly cancelled on June 1, 2015 and should have continued until June 30, 2015.

The second issue under review is whether the Marketplace properly determined that your child's effective date of coverage through Hudson Health was July 1, 2015.

The record indicates that you contacted the Marketplace on May 29, 2015 and changed your child's Child Health Plus plan from Fidelis Care to Hudson Health.

In New York State, consistent with federal regulation, a plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Since you changed your child's health plan from Fidelis Care to Hudson Health on May 29, 2015, it must take effect on the first day of the second month after May 2015; that is, on July 1, 2015.

Therefore the Marketplace properly enrolled your child in Fidelis Care on July 1, 2015.

This case is RETURNED to the Marketplace to ensure that your child's Fidelis Care coverage is active from June 1, 2015 through June 30, 2015, and coverage through Hudson Health is effective July 1, 2015.

Decision

This case is RETURNED to the Marketplace to ensure that your child's Fidelis Care coverage is active from June 1, 2015 through June 30, 2015, and coverage through Hudson Health is effective July 1, 2015.

Effective Date of this Decision: January 22, 2016

How this Decision Affects Eligibility

Your child's Child Health Plus (Fidelis Care) coverage should have been active from June 1, 2015 through June 30, 2015.

Your child's Child Health Plus (Hudson Health) coverage should have been effective July 1, 2015.

If You Disagree with this Decision (Appeal Rights)

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).

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
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

This case is RETURNED to the Marketplace to ensure that your child's Fidelis Care coverage is active from June 1, 2015 through June 30, 2015, and coverage through Hudson Health is effective July 1, 2015.

Your child's Child Health Plus (Fidelis Care) coverage should have been active from June 1, 2015 through June 30, 2015.

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Your child's Child Health Plus (Hudson Health) coverage should have been effective July 1, 2015.

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:

