



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

## Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004759

[REDACTED]

Dear [REDACTED],

On December 18, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 17, 2015 eligibility determination 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 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

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004759

[REDACTED]

## Issue

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your children are not eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through the Marketplace as of August 17, 2015?

Did the Marketplace properly determine that your children's Child Health Plus (UnitedHealthcare Community Plan) enrollment start date should be November 1, 2015?

## Procedural History

On July 29, 2014 the Marketplace issued a notice stating, "you have chosen to receive all information for the New York Marketplace electronically. This means that all important notifications will be sent to your Marketplace account."

On July 14, 2015 the Marketplace issued a notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage your children could have for next year. The notice directs you to return to your account by August 15, 2015 to provide more information or the financial assistance you are receiving may end.

On August 17, 2015 the Marketplace issued a notice of eligibility determination stating that your children are not eligible for Medicaid, Child Health Plus, receive tax credits or cost-sharing reductions, or enroll in a qualified health plan at full cost through the Marketplace, because you did not complete your renewal within the required timeframe. The notice states that their eligibility will end effective August 31, 2015.

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).

On the same day the Marketplace issued a disenrollment notice that your children's coverage with UnitedHealthcare Community Plan will end August 31, 2015.

On September 22, 2015 you spoke to the Marketplace's Account Review Unit and requested an appeal in regard to the enrollment start date of your children's health insurance through UnitedHealthcare Community Plan.

On September 23, 2015 the Marketplace issued an eligibility determination notice that your children are eligible to enroll in Child Health Plus for a cost of \$45.00 per month effective November 1, 2015.

On the same day the Marketplace issued an enrollment notice that your children's coverage through UnitedHealthcare Community Plan enrollment will have a start date of November 1, 2015.

On December 18, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

## **Findings of Fact**

A review of the record supports the following findings of facts:

1. You are applying for health insurance for your three children. Their ages are fifteen, fourteen and three.
2. According to your Marketplace account, your three children were enrolled in a Child Health Plus insurance plan from September 1, 2014 through August 31, 2015.
3. You testified that you did not receive any notices from the Marketplace regarding the need to renew your children's information to ensure that your children's coverage would not be interrupted.
4. You testified that the email address listed on your Marketplace account is correct.
5. You testified that you first became aware that your children were disenrolled from their UnitedHealthcare Community Plan at a dentist appointment in September 2015.
6. You testified that you have outstanding medical bills because your children were improperly disenrolled.

7. According to your Marketplace account, you renewed your children's health insurance on September 22, 2015.

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

## **Applicable Law and Regulations**

### Child Health Plus Renewal:

In general, the Marketplace must review Child Health Plus 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), 42 CFR § 457.343).

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

(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, 42 CFR § 457.110(a)(1)).

## **Legal Analysis**

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

On July 14, 2015 the Marketplace issued a notice stating that New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your children's insurance or what kind of coverage your children could have for next year. The notice directed you to return to your account by August 15, 2015 and provide more information.

On August 17, 2015 the Marketplace issued a notice of eligibility determination stating that your children were not eligible to enroll in a plan or receive financial assistance because you did not complete the renewal within the required timeframe.

On the same day the Marketplace issued a disenrollment notice that your children's coverage with UnitedHealthcare Community Plan will end effective August 31, 2015.

On September 23, 2015, the Marketplace issued a notice confirming your children's enrollment in UnitedHealthcare Community Plan with an enrollment start date of November 1, 2015.

On September 22, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of your children's health insurance coverage through UnitedHealthcare Community Plan.

Since you elected to receive communications from the Marketplace 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 e-mail or other electronic communication alerting you that a notice had been posted to your account.

The July 14, 2015 renewal notice was posted to your account, but the record contains no evidence that the Marketplace sent the required e-mails to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that you learned that you had no health insurance at a dentist appointment.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding termination of your children's UnitedHealthcare Community Plan health insurance coverage.

Accordingly, the August 17, 2015 notice stating that your children are not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is RESCINDED.

The September 23, 2015 enrollment notice is MODIFIED to state that your children's health insurance coverage through UnitedHealthcare Community Plan will begin September 1, 2015.

## **Decision**

The notice of eligibility determination issued on August 17, 2015 is RESCINDED.

The September 23, 2015 notice of eligibility determination is MODIFIED to state that your children's insurance coverage through UnitedHealthcare Community Plan will begin September 1, 2015.

**Effective Date of this Decision:** January 08, 2016

## **How this Decision Affects Eligibility**

Your children are eligible for Child Health Plus (UnitedHealthcare Community Plan) effective September 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.

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).

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 notice of eligibility determination issued on August 17, 2015 is RESCINDED.

The September 23, 2015 notice of eligibility determination is MODIFIED to state that your children's insurance coverage through UnitedHealthcare Community Plan will begin September 1, 2015.

Your children are eligible for Child Health Plus (UnitedHealthcare Community Plan) effective September 1, 2015.

### **Legal Authority**

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

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**A Copy of this Decision Has Been Provided To:**

