



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

Notice of Decision

Decision Date: February 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004837

[REDACTED]

Dear [REDACTED],

On February 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 17, 2015 eligibility redetermination and disenrollment notices and September 12, 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 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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NY State of Health Number: [REDACTED]
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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 you, your spouse, and child were disenrolled from your Medicaid Managed Care plan, effective August 31, 2015?

Did the Marketplace properly determine that you, your spouse, and child were eligible for Medicaid effective September 1, 2015, and enrolled in a Medicaid Managed Care plan, effective October 1, 2015?

Procedural History

According to your Marketplace account, your family was determine eligible for Medicaid, effective September 1, 2014 and was enrolled in a Medicaid Managed Care (MMC) plan, Healthfirst, effective October 1, 2014.

On July 14, 2015, the Marketplace issued a renewal notice stating that, based on federal and state sources, a decision about whether you and your family qualified for financial assistance could not be made and you needed to update your Marketplace application by August 15, 2015 so that an appropriate decision could be made. The notice further stated that if you missed this deadline, the coverage you and your family were then getting might end.

As of August 15, 2015, your Marketplace account had not been updated.

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On August 17, 2015, the Marketplace issued a notice of eligibility redetermination stating that you, your spouse, and child were no longer eligible for financial assistance and could not enroll in a qualified health plan at full cost through the Marketplace because you did not respond to and complete your renewal within the required timeframe. The notice stated that your family's eligibility would end effective August 31, 2015.

Also on August 17, 2015, the Marketplace issued a disenrollment notice confirming that your family's health coverage in your MMC plan would terminate effective August 31, 2015.

On September 12, 2015, based on your updated Marketplace application, the Marketplace issued a notice of eligibility redetermination stating that your family was eligible for Medicaid, effective September 1, 2015.

Also on September 12, 2015, the Marketplace issued an enrollment notice confirming that your family was enrolled in Healthfirst, an MMC plan, effective October 1, 2015.

On September 30, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal insofar as your family's MMC plan enrollment began October 1, 2015 when you wanted it to be September 1, 2015.

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 held open for up to 15 days to allow you and your spouse to submit statements of no income.

On February 12, 2016, the Appeals Unit received a two-page facsimile from you consisting of your and your spouse's signed February 11, 2016 statements regarding your respective income situations. That same day, this two-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

A review of the record support the following findings of fact:

- 1) 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.
- 2) Your Marketplace account indicates that you elected to have alerts regarding information and notices from the Marketplace sent to you via email.

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- 3) You testified that you did not elect to receive email alerts, were not asked your preference when the certified account counselor assisted you with your initial application, did not receive any email alerts, and have always preferred to receive notices through standard mail. Since your appeal, your preference was changed on your Marketplace account to reflect that you have elected to receive notices from the Marketplace via standard mail.
- 4) You testified that you first became aware you were disenrolled from Healthfirst, your MMC plan, when you received medical treatment in September 2015 that had been previously pre-approved by your MMC plan as a series of treatment.
- 5) You testified that you updated the information in your Marketplace Account on September 11, 2015, as noted in your Marketplace account. You testified you would have updated your account before the August 15, 2015 deadline had you received timely and proper notice.
- 6) You testified that you reenrolled yourself and your family into the same MMC plan that you had been enrolled in previously through Healthfirst.
- 7) Your household income on your September 11, 2015 Marketplace application indicated zero income and that your family provides financial support. You testified that this was correct and submitted signed statements from you and your spouse, dated February 11, 2016, that are consistent with this information (Appellant's Exhibit A). Your spouse's statement indicates that he earned \$11,733.34 in 2015, and had zero income in September 2015 (*id.*).

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)).

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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)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) 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)).

Electronic Notices

Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency (Marketplace) 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 (42 CFR §435.918).

If the applicant elects to receive electronic notices, the Marketplace must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4)). If an electronic notice is undeliverable, the Marketplace must send a notice by standard mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue is whether the Marketplace properly determined that your family's enrollment in your MMC plan was effective October 1, 2015 and not September 1, 2015.

You and your family were originally found eligible for Medicaid beginning September 1, 2014 and were enrolled in an MMC plan through Healthfirst effective October 1, 2014. As such, your family's eligibility was due to end on August 31, 2015 after 12 months of continuous coverage.

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Generally, the Marketplace must redetermine a qualified family's eligibility for Medicaid once every twelve months without requiring information from the individual or family if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. In your case, however, the Marketplace's July 14, 2015 renewal notice stated that there was not enough information to determine whether you and your family were eligible for financial assistance for health insurance coverage for the next coverage period, and that you needed to supply additional information by August 15, 2015 or your family's financial assistance might end.

Because there was no timely response to this notice, you and your family were terminated from your MMC plan effective August 31, 2015.

However, you credibly testified that you had not received any notice via email alert or standard mail advising you of the need to update your account. You further testified that had you received such notice, you would have immediately updated your Marketplace account before the August 15, 2015 deadline.

The record reflects that, on September 11, 2015, you spoke to the Marketplace and verbally updated the information in your Marketplace account after learning that your MMC plan had terminated effective August 31, 2015.

This update resulted in the Marketplace redetermining your household's eligible for Medicaid. On September 12, 2015, the Marketplace issued an eligibility redetermination notice that stated you and your family were eligible for Medicaid effective September 1, 2015.

The record further reflects that your expected household income did not change between 2014 and 2015. Your application consistently stated that your household income was \$0.00 or below the Medicaid threshold for a three-person household. The record also reflects that you reenrolled in the exact same MMC plan beginning October 1, 2015 that you were enrolled in from October 1, 2014 through August 31, 2015.

You were entitled to notice of the need to renew your application, and there is no evidence to show that you received any emails which alerted you to documents having been uploaded to your account. Nor is there any evidence that the Marketplace sent you notice via standard mail. Therefore, it is found that the Marketplace improperly disenrolled you and your family from your MMC plan without timely and proper notice. We find in your favor even though you had not elected to receive email alerts because there is no evidence that you received timely and proper notice by either acceptable modes of notice.

Since your family remained eligible for Medicaid, your household's income remained unchanged, and you and your family reenrolled into the same MMC plan that you would have selected had you received timely and proper notice, the

September 12, 2015 enrollment confirmation notice is MODIFIED to state that the enrollment in your family's MMC plan was effective September 1, 2015.

Decision

The September 12, 2015 enrollment confirmation notice is MODIFIED to state that your family's enrollment with Healthfirst, an MMC plan, will begin September 1, 2015.

Your case is RETURNED to the Marketplace to effectuate this change in your Marketplace account and to notify you accordingly.

Effective Date of this Decision: February 22, 2016

How this Decision Affects Your Eligibility

You and your family are enrolled in your MMC plan effective September 1, 2015.

The Marketplace will change your enrollment start date to September 1, 2015 and notify of this change.

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

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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 September 12, 2015 enrollment confirmation notice is MODIFIED to state that your family's enrollment with Healthfirst, an MMC plan, will begin September 1, 2015.

Your case is RETURNED to the Marketplace to effectuate this change in your Marketplace account and to notify you accordingly.

You and your family are enrolled in your MMC plan effective September 1, 2015.

The Marketplace will change your enrollment start date to September 1, 2015 and notify of this change.

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:

