



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

Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004864

[REDACTED]

Dear [REDACTED],

On December 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 26, 2015 enrollment 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).

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Issue

The issue presented for review by the Appeals Unit of NYState of Heath is:

Did the Marketplace properly determine your youngest child is enrolled in EssentialCare Gold ST INN Dep25 effective November 1, 2015?

Procedural History

On December 31, 2014 the Marketplace issued an enrollment notice confirming that your youngest child was enrolled in Child Health Plus (Emblem Health) and coverage could start as early as February 1, 2015.

On June 25, 2015 the Marketplace issued a disenrollment notice that your youngest child's coverage with Emblem Health would end effective April 30, 2015. The notice stated that your youngest child is no longer eligible to remain enrolled in their current health insurance.

On June 26, 2015 the Marketplace issued an eligibility determination notice that your youngest child was newly eligible to receive advance premium tax credits effective as of May 1, 2015.

On August 25, 2015 you uploaded five-pages of documents to your Marketplace.

On September 26, 2015 the Marketplace issued an enrollment notice confirming your youngest child's enrollment in EssentialCare Gold ST INN Dep25 (Heath Republic Insurance of New York) with a plan enrollment start date of February 1, 2015.

On October 3, 2015, you spoke to the Marketplace's Account Review Unit and appealed the September 26, 2015, enrollment notice.

On December 22, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing. The record is now complete and closed.

Findings of Fact

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

1. Your youngest child was born on [REDACTED].
2. Your youngest child was enrolled in Child Health Plus (Emblem Health) from February 1, 2015 through April 30, 2015.
3. On June 25, 2015 the Marketplace issued a disenrollment notice that your youngest daughter's Emblem Health coverage would end effective April 30, 2015.
4. On August 25, 2015 you faxed a statement to the Marketplace. It states that you contacted the Marketplace's Customer Service in June 2015 to inform them that your youngest child had been enrolled in Health Republic since January 1, 2015. However, it states that the representative failed to inform you that you had to enroll your child through the Marketplace.
5. On August 25, 2015 you faxed a Heath Republic Enrollment Confirmation Statement, dated February 19, 2015, to the Marketplace. It states that "[y]our health plan will take effect on 01/01/2015." The "HEALTH PLAN SELECTION SUMMARY" includes your youngest child was an eligible dependent in the "New York EssentialCare Gold Plan on Exchange."
6. According to the September 26, 2015 enrollment notice, your youngest child was enrolled in Health Republic Insurance of New York as of September 21, 2015.
7. According to your Marketplace account, your youngest child was enrolled in Health Republic with a start date of November 1, 2015.
8. You testified that you brought your youngest child to the doctor in June and July 2015, and have outstanding medical bills for those visits.

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.

Generally, a child who is eligible for CHP may only have his or her financial eligibility redetermined once every 12 months, and no more frequently than once every twelve months (42 CFR § 435.916(a)).

However, an enrollee shall be disenrolled from coverage if the enrollee reaches the age of 19. The enrollee shall be disenrolled on the first day of the month following their 19th birthday. (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.3(g)).

Child Health Plus Notice of Eligibility:

The Marketplace must provide each applicant or enrollee a written notice of any decision on the application or other determination concerning eligibility. If eligibility is denied, suspended or terminated, the Marketplace must provide sufficient notice to enable the child's parent or caretaker to take any appropriate actions that may be required to allow coverage to continue without interruption (42 CFR § 457.340(e)(2)).

Enrollment in a Qualified Health Plan

The Marketplace must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR §155.410(a)).

For the benefit year beginning on January 1, 2015, the annual open enrollment period began on November 15, 2014 and extended through February 15, 2015 (45 CFR §155.410(e)); however, the open enrollment period was further extended to February 28, 2015 for individuals who took steps to apply for coverage on or before the February 15, 2015 deadline, but were unable to complete the enrollment process (Press Release: NY State of Health Implements 'Waiting in Line' Provision Ahead of February 15 Open Enrollment Deadline, <http://info.nystateofhealth.ny.gov/news/press-release-ny-state-health-implements-%E2%80%98waiting-in-line%E2%80%99-provision-ahead-february-15-open>).

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After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan (45 CFR § 155.420(d)).

For individuals who are eligible for a special enrollment period on the basis that the individual loses their minimum essential coverage, if the plan selection is made on or before the day of the triggering event, the Marketplace must ensure that the coverage effective date is on the first day of the month following the loss of coverage (45 CFR § 155.420(b)(iv)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that qualified health plan enrollment start date should be November 1, 2015.

Generally, once a child is determined fully eligible for Child Health Plus, they are entitled to a 12-month period, unless an event occurs to disqualify them from CHP eligibility. An enrollee shall be disenrolled from Child Health Plus coverage if the enrollee reaches the age of 19. The enrollee shall be disenrolled on the first day of the month following their 19th birthday.

According to the record, your youngest child was born on [REDACTED], and was disenrolled from Child Health (Emblem Health) on April 30, 2015.

Since your youngest child turned 19 during the month of April 2015, the Marketplace disenrolled your child from their Emblem Health coverage on April 30, 2015.

Federal Regulation requires the Marketplace to provide an enrollee proper notice regarding any change in their eligibility in Child Health Plus in order to provide an enrollee's parent or caretaker the opportunity to act to continue the enrollee's health insurance coverage without interruption. The notice must include information that states the rights and responsibilities under the program.

The record contains a disenrollment notice, dated June 25, 2015, from the Marketplace terminating your youngest child's Emblem Health coverage effective April 30, 2015. Therefore, the Marketplace failed to provide a disenrollment notice that properly notified you that your youngest child's Child Health Plus plan would terminate.

Generally, when a qualified individual or their dependent enrolls in a qualified health plan through the Marketplace after their minimum essential coverage has ended, the date in which the plan can take effect depends on the day a person selects the plan for enrollment.

When a plan is selected between the first day and fifteenth day of a month, the plan's effective date is on the first day of the following month. However, 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.

You selected the Health Republic Insurance of New York for your youngest child on September 21, 2015, so the enrollment start date was November 1, 2015.

However, since the Marketplace failed to properly notify you that your youngest child's Child Health Plus plan would terminate April 30, 2015, you were not given the opportunity to act to continue your child's health insurance coverage without interruption.

Therefore, the Marketplace's September 26, 2015 enrollment notice is MODIFIED to state that your youngest child's QHP enrollment start date is May 1, 2015.

Your case is RETURNED to the Marketplace for the Marketplace to change your youngest child's QHP plan enrollment start date to May 1, 2015.

Decision

Therefore, the Marketplace's September 26, 2015 enrollment notice is MODIFIED to state that your youngest child's QHP enrollment start date is May 1, 2015.

Your case is RETURNED to the Marketplace for the Marketplace to change your youngest child's QHP plan enrollment start date to May 1, 2015.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Eligibility

This decision changes your youngest child's QHP enrollment start date from November 1, 2015, to May 1, 2015.

You may be responsible for any additional health insurance premiums that may result from effectuating this change in coverage.

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
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NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Therefore, the Marketplace's September 26, 2015 enrollment notice is MODIFIED to state that your youngest child's QHP enrollment start date is May 1, 2015.

Your case is RETURNED to the Marketplace for the Marketplace to change your youngest child's QHP plan enrollment start date to May 1, 2015.

This decision changes your youngest child's QHP enrollment start date from November 1, 2015, to May 1, 2015.

You may be responsible for any additional health insurance premiums that may result from effectuating this change in coverage.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

