



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

Notice of Decision

Decision Date: February 8, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004895

[REDACTED]

Dear [REDACTED],

On January 4, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 15, 2015, disenrollment notice, and October 7, 2015, eligibility determination.

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).

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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 child from her health plan effective September 30, 2015?

Did the Marketplace properly determine that your child's enrollment in a Child Health Plus plan was effective November 1, 2015?

Procedural History

On June 10, 2015, the Marketplace received your household's application for financial assistance with your health insurance coverage.

That same day an eligibility determination was made finding your newborn child conditionally eligible to enroll in Child Health Plus for a cost of \$45.00 per month effective July 1, 2015. This eligibility was based on the condition that you provide documentation to confirm her citizenship status and Social Security number by September 8, 2015.

On June 11, 2015, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus health plan with a premium responsibility of \$45.00 per month effective July 1, 2015 as long as you paid your first month's premium.

On September 13, 2015, your child's eligibility was redetermined. That eligibility determination found your child no longer eligible for Child Health Plus, as you did

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not provide the requested documentation confirming her citizenship status and Social Security number by the requested deadline. Her eligibility therefore would end effective September 30, 2015.

On September 15, 2015, a disenrollment notice was issued terminating your child's coverage in her Child Health Plus plan effective September 30, 2015.

On October 7, 2015, an eligibility determination was made finding your child eligible to enroll in Child Health Plus for a cost of \$45.00 per month effective November 1, 2015.

That same day you enrolled your child in a Child Health Plus plan with a start date of November 1, 2015.

On October 9, 2015, you contacted the Marketplace's Account Review Unit and requested a telephone hearing in order to appeal the verbal denial of the backdating of your daughter's Child Health Plus coverage to October 1, 2015.

On January 4, 2016, you had a telephone hearing with a Hearing Officer from the NY State of Health 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, and the record reflects, that you are appealing only your daughter's eligibility and enrollment start date under her Child Health Plus plan.
- 2) Your Marketplace account supports that your daughter was born on [REDACTED].
- 3) The record reflects that your first application for your daughter's financial assistance with Child Health Plus was received on June 10, 2015.
- 4) Your June 10, 2015 application stated that you were in the process of applying for your daughter's Social Security number.
- 5) Your child was found eligible for Child Health Plus at rate of \$45.00 per month effective July 1, 2015.

- 6) On June 10, 2015, you were asked to provide documentation to confirm your daughter's citizenship status and Social Security number by September 8, 2015.
- 7) You testified that you were not certain if you received this notice.
- 8) You testified that on June 10, 2015, you enrolled your children in a Child Health Plus plan through the Marketplace with a start date of July 1, 2015.
- 9) Your Marketplace account indicates that you receive your notices via regular mail.
- 10) You testified you gave your Social Security number over the phone for your daughter to the Marketplace on or about October 1, 2015.
- 11) Your Marketplace accounts an update to her account information on October 7, 2015.
- 12) You are seeking a start date of October 1, 2015 for your daughter's Child Health Plus plan.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through the Marketplace, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expecting to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

The Marketplace must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

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If an applicant attests to citizenship, status as a national, or lawful presence, and the Marketplace is unable to verify such attestation, the Marketplace must provide the applicant 90 days, from the date the notice of inconsistency is received by the applicant, to provide satisfactory documentary evidence. Notice is considered to have been received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period. (45 CFR § 155.315(c)(3)).

Social Security Number Verification

If an applicant applies for Child Health Plus, the agency must require as a condition of eligibility, they furnish their Social Security number. (42 CFR § 457.340 (b)) (42 CFR § 435.910 (f)).

Child Health Plus

Child Health Plus 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.). Eligibility rules are set out in NY Public Health Law § 2511(2).

“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)).

The State of New York has stated that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month of the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month (see e.g. SPA Amendment NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue is did the Marketplace properly disenroll your child from her health plan effective September 30, 2015?

According to the application that was submitted on June 10, 2015, you attested that you were in the process of applying for your daughter’s Social Security number.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that

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they have a valid Social Security number and that their citizenship status is satisfactory.

If the Marketplace cannot verify an individual's citizenship status or validate their Social Security number, it must provide the individual a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on June 10, 2015, the determination was only conditional and found her conditionally eligible to enroll in Child Health Plus for a cost of \$45.00 per month effective July 1, 2015. This eligibility was based on the condition that you provide documentation to confirm her citizenship status and Social Security number by September 8, 2015.

The record reflects the Marketplace did not receive the requested citizenship documentation or a valid Social Security number before that deadline.

If the Marketplace remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data source.

You testified you gave your Social Security number over the phone for your daughter to the Marketplace on or about October 1, 2015.

Your Marketplace accounts an update to her account information on October 7, 2015.

Since the requested citizenship documentation was not received within the 90 day period, the Marketplace was required to redetermine your child's eligibility without verification documents or information such as her Social Security number. As a result the Marketplace properly determined your child could not enroll in Child Health Plus effective September 30, 2015. Therefore the Marketplace's September 15, 2015, disenrollment notice is AFFIRMED.

The second issue is did the Marketplace properly determine that your child's enrollment in a Child Health Plus plan was effective November 1, 2015 and not October 1, 2015?

The record indicates that you submitted your daughter's updated application for health insurance on October 7, 2015 and that you enrolled her 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 before the 15th of the month, benefits are provided on the first day of the next month.

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On October 7, 2015, an eligibility determination was made finding your child eligible to enroll in Child Health Plus for a cost of \$45.00 per month effective November 1, 2015. That same day you enrolled your child in a Child Health Plus plan with a start date of November 1, 2015.

Since your daughter's application was filed on October 7, 2015, her Child Health Plus plan properly took effect on November 1, 2015. Therefore the Marketplace's October 7, 2015, eligibility determination is AFFIRMED.

Decision

The Marketplace's September 15, 2015, disenrollment notice is AFFIRMED.

The Marketplace's October 7, 2015, eligibility determination is AFFIRMED.

Effective Date of this Decision: February 8, 2016

How this Decision Affects Your Eligibility

This decision does not change your daughter's eligibility for Child Health Plus.

The effective date of your daughter's Child Health Plus plan is November 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

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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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- By fax: 1-855-900-5557

Summary

The Marketplace's September 15, 2015, disenrollment notice is AFFIRMED.

The Marketplace's October 7, 2015, eligibility determination is AFFIRMED.

This decision does not change your daughter's eligibility for Child Health Plus.

The effective date of your daughter's Child Health Plus plan is November 1, 2015.

Legal Authority

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A Copy of this Decision Has Been Provided To:

