



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

Notice of Decision

Decision Date: April 25, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004963



Dear [REDACTED],

On February 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 3, 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 and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (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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Issue

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

Did the Marketplace properly determine that your children are not eligible for financial assistance or enroll in a qualified health plan at full cost through the Marketplace for failing to obtain a Social Security number?

Procedural History

On January 30, 2015, the Marketplace issued an eligibility redetermination notice stating that your children were conditionally eligible to enroll in Child Health Plus plan with a \$9.00 monthly premium contribution, effective March 1, 2015. The notice further stated that additional information regarding your rental lease agreement and your children's Social Security number before March 22, 2015.

On May 3, 2015, the Marketplace issued a notice of eligibility redetermination that your two minor children no longer qualified for any financial assistance or to enroll in a qualified health plan through New York State of Health because you did not provide their respective Social Security numbers in the timeframe provided. The notice stated that your children's CHP coverage would end May 31, 2015.

On May 13, 2015, you mailed an appeal request to the Marketplace requesting to appeal your children's disenrollment from their Child Health Plus plans.

On May 16, 2015, the Marketplace issued an eligibility redetermination notice stating that your children were conditionally eligible to enroll in Child Health Plus plan with a \$9.00 monthly premium contribution, effective June 1, 2015. The notice further stated

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that additional information regarding your rental lease agreement and your children's Social Security number before August 13, 2015.

On May 30, 2015, the Marketplace issued an eligibility redetermination notice stating that your children were conditionally eligible to enroll in Child Health Plus plan with a \$9.00 monthly premium contribution, effective June 1, 2015. The notice further stated that additional information regarding your rental lease agreement and your children's Social Security number before September 12, 2015.

On May 30, 2015, the Marketplace issued an enrollment notice confirming that as of May 29, 2015, your children were enrolled in Healthfirst PHSP, Inc., a CHP plan, and the monthly premium responsibility totaled \$18.00. The notice further stated that health insurance coverage will begin after you have paid the first month's premium and could start as early as July 1, 2015.

On July 28, 2015, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit.

On August 11, 2015, the NYSOH Appeals Unit issued a Notice of Dismissal for failing to submit a valid appeal (Document [REDACTED]).

On October 3, 2015, the Marketplace issued an eligibility determination notice that your two children were not eligible for financial assistance or cannot enroll in a qualified health plan at full cost through the Marketplace. The notice states that you did not provide your children's Social Security numbers, which is necessary to confirm their eligibility and their coverage would end October 31, 2015.

On October 3, 2015, the Marketplace issued a disenrollment notice that your children's Healthfirst PHSP, Inc. plan would end effective October 31, 2015.

On October 13, 2015, you mailed an appeal request to the Marketplace. You requested an appeal insofar as your children's disenrollment from their Child Health Plus plan.

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 closed at the end of the hearing.

Findings of Fact

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

- 1) According to your Marketplace account and testimony, you are an L-1 Nonimmigrant Visa holder.
- 2) You testified that your spouse and two children are L-2 Nonimmigrant Visa holders.

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- 3) On May 12, 2015, you submitted your 2014 Form 1040 to the Marketplace (Document [REDACTED]). According to your Marketplace account, [REDACTED] is your only source of income.
- 4) On May 12, 2015, you uploaded you and your spouse's Social Security cards to your Marketplace account (Document [REDACTED]).
- 5) The record reflects that your children were born on [REDACTED], and [REDACTED] and are currently 11 years old and 7 years old.
- 6) According to your Marketplace account, you, your spouse and children currently reside at [REDACTED].
- 7) On May 12, 2015, you uploaded a copy of your rental lease and contact extension for the apartment your family rents in [REDACTED] NY (Document [REDACTED]). Furthermore, you uploaded the subsequent lease on November 4, 2015 (Document [REDACTED]).
- 8) The NYSOH was aware as of August 11, 2015, that your children's applications for Social Security numbers were verbally denied by the Social Security Administration office (Document [REDACTED]).
- 9) You testified that you did not obtain a statement from the Social Security Administration denying your child a Social Security number in writing.
- 10) On October 13, 2015, you mailed an appeal request to the Marketplace (Document [REDACTED]). The request stated:

As I previously explained multiple times to your organization, my visa status is (L1) **does not allow my children to have a Social Security number**. The Social Security administration explicitly refused to give a number for my kids when I came at their [REDACTED] office to apply for one.
- 11) According to your Marketplace account, your children do not have other health insurance coverage outside of the Marketplace.

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

Applicable Law and Regulations

Child Health Plus - Generally

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).

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

The Marketplace must require an applicant who has a Social Security number to provide the number to the Marketplace (45 CFR § 155.310(a)(3), emphasis added). For applicants seeking enrollment in Medicaid or Child Health Plus, the requirement to obtain a Social Security number does not apply to an applicant who is not eligible to receive one or does not yet have one (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1)).

If an applicant cannot recall their SSN or SSNs or has not been issued a SSN the agency must—

- (1) Assist the applicant in completing an application for an SSN;
- (2) Obtain evidence required under SSA regulations to establish the age, the citizenship or alien status, and the true identity of the applicant; and
- (3) Either send the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to furnish the number

(42 CFR § 435.910(e)).

The agency must not deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by SSA or if the individual meets one of the exceptions list under section (h) of 42 CFR § 435.910 (42 CFR § 457.340(f)).

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the Child Health Plus premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law [PHL] § 2510(6)).

Legal Analysis

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The only issue under review is whether the Marketplace properly determined that your children's eligibility for Child Health Plus was conditioned upon them obtaining and providing Social Security numbers.

On May 16, 2015 and May 30, 2015, the Marketplace issued eligibility determination notices stating that your children were conditionally eligible to enroll in Child Health Plus plan and that you needed to provide documentation of their Social Security numbers to the Marketplace before August 13, 2015 and September 12, 2015.

The Marketplace is required to determine whether individuals are eligible to enroll in coverage through the Marketplace, and must confirm, among other things, that they have valid Social Security numbers. However, for children seeking enrollment in Child Health Plus, the requirement to obtain and submit a Social Security number does not apply to an applicant who does not currently have one.

The record reflects that you are an L-1 Nonimmigrant Visa holder, and your children, ages 11 and 7, are L-2 Nonimmigrant Visa holders.

You submitted a written statement to the Marketplace that your visa status does not allow your children to have a Social Security number. Furthermore, you testified that you attempted to obtain Social Security numbers, for your children, at the Social Security Administration's [REDACTED] office, but was verbally declined.

The record supports that your children do not currently possess Social Security numbers and you notified the Marketplace that you were unable to obtain Social Security numbers from the Social Security Administration. Therefore, the requirement to obtain and provide Social Security numbers, for your children, in order to be eligible for Child Health Plus coverage through the Marketplace does not apply.

Therefore, the October 3, 2015 eligibility redetermination notice stating that your children were no longer eligible for financial assistance because you did not provide their Social Security numbers and their coverage would end October 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to **REINSTATE** your children's Child Health Plus coverage effective November 1, 2015.

Decision

The October 3, 2015 eligibility determination is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to **REINSTATE** your children's Child Health Plus coverage effective November 1, 2015 and facilitate their enrollment without regard to their ability to obtain Social Security numbers.

Effective Date of this Decision: April 25, 2016

How this Decision Affects Your Eligibility

The October 3, 2015 eligibility determination is cancelled.

Your children's Healthfirst PHSP, Inc. plan through Child Health Plus will be reinstated effective November 1, 2015.

Your children will be reenrolled in their Child Health Plus coverage without regard to their ability to obtain a Social Security number.

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 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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- By fax: 1-855-900-5557

Summary

The October 3, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to REINSTATE your children's Child Health Plus coverage effective November 1, 2015 and facilitate their enrollment without regard to their ability to obtain Social Security numbers.

The October 3, 2015 eligibility determination is cancelled.

Your children's Healthfirst PHSP, Inc. plan through Child Health Plus will be reinstated effective November 1, 2015.

Your children will be reenrolled in their Child Health Plus coverage without regard to their ability to obtain a Social Security number.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

