



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

Notice of Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005055

[REDACTED]

Dear [REDACTED],

On January 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 22, 2015 enrollment confirmation notice regarding your children's renewal start date in their Child Health Plus plan.

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).

This page intentionally left blank.



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

Decision

Decision Date: January 27, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005055

[REDACTED]

Issues

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

Did the Marketplace properly determine that your children were eligible for Child Health Plus and had coverage through Child Health Plus plan, effective December 1, 2015?

Did the Marketplace properly determine that your 11 year-old child was not eligible for coverage through Child Health Plus from September 1, 2015 through September 30, 2015?

Procedural History

According to your Marketplace account, your children were enrolled in fee-for-service Medicaid as of September 1, 2014 and then in a Medicaid Managed Care (MMC) plan from October 1, 2014 through August 31, 2015.

On July 14, 2015, the Marketplace issued a renewal notice that in part stated, based on the information from federal and state data sources, it could not make a decision about whether or not your children qualified for financial help paying for their health coverage on renewal. The notice instructed you to update the information on your NY State of Health account by August 15, 2015 so that an appropriate decision could be made and, if you missed this deadline, the financial assistance your children were then getting might end.

Your Marketplace account had not been updated as of August 15, 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 August 17, 2015, the Marketplace issued a notice of eligibility redetermination that in part stated your children were no longer eligible for Medicaid, Child Health Plus (CHP), or tax credits and cost-sharing reductions, and could not enroll in a qualified health plan at full cost because you did not respond to the renewal notice and update your application within the required timeframe. The notice indicated that their eligibility would end effective August 31, 2015.

On August 18, 2015, the Marketplace issued a disenrollment notice confirming in part that your children's coverage with their MMC plan would end effective August 31, 2015.

Based on your October 21, 2015 updated application, on October 22, 2015, the Marketplace issued a notice of eligibility redetermination that in part stated your children were eligible to enroll in Child Health Plus (CHP) with a \$9.00 monthly premium for each child, effective December 1, 2015.

Also on October 22, 2015, the Marketplace issued an enrollment notice confirming in part your selection of Fidelis Care as your children's CHP plan with a plan enrollment date of December 1, 2015.

That same day, the Marketplace issued an eligibility redetermination that stated your request to have the CHP coverage for your 11 year-old child backdated to September 1, 2015 through September 30, 2015, was denied because the program he was eligible for cannot pay for any care he received in the past.

On October 29, 2015, you spoke to the Marketplace's Account Review Unit and appealed the enrollment start date for your 11 year-old child of December 1, 2015, and the Marketplace's denial of your request to backdate his coverage to September 1, 2015.

On January 15, 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 support the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing the December 1, 2015 re-enrollment start date for your children in a CHP plan and the Marketplace's denial of your request to backdate the start date of the CHP coverage of your 11 year-old child to September 1, 2015.
- 2) You testified that you elected to receive notices from the Marketplace via standard mail because your email connection on your cellular telephone is spotty where you live in Oswego County and you do not own a computer.

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).

- 3) You testified that you did not receive via standard mail any of the notices relating to your household's renewal, ineligibilities, or disenrollment; specifically, the notices dated July 14, 2015, August 17, 2015, and August 18, 2015 respectively.
- 4) According to your Marketplace account and your testimony, since your first application in 2014, your mailing address has been and remains the same.
- 5) Your Marketplace account does not contain an initial notice confirming that you had elected to receive information from the Marketplace electronically.
- 6) You testified that you learned your children did not have insurance coverage after you received a bill for your child's medical treatment at an urgent care center and a hospital in September 2015. You testified this prompted you to contact their Fidelis Care CHP plan on October 21, 2015. You testified that a plan representative stated you had voluntarily disenrolled the children from their CHP Plan as of August 31, 2015.
- 7) You testified that, when you learned your children did not have health insurance coverage with Fidelis Care any longer, you contacted the Marketplace and were informed that their coverage terminated as of August 31, 2015, because you had not updated your application for renewal within the required time frame.
- 8) You testified that the Marketplace representative told you that the Marketplace had sent electronic alerts via email informing you of the July 14, 2015 renewal notice, the August 17, 2015 eligibility redetermination notice, and the August 18, 2015 disenrollment notice.
- 9) According to the recorded telephone conversation with a Marketplace representative that you had on October 21, 2015, the Marketplace representative explained that, according to your initial application, you had elected to receive communications by email alerts and that is how the Marketplace notified you of 2015 notices in your account that required your attention.
- 10) According to that recorded telephone conversation, you stated that you do not know how or why an electronic method of notification was initially selected because you did not and would not have chosen that method.
- 11) You testified that you did not look for nor expect to receive any email alerts in your email account from the Marketplace at any time since you believed you had elected to receive notices from the Marketplace via regular U.S. mail and, therefore, did not know there was a renewal process, which included the requirement of updating your Marketplace account by August 15, 2015.

- 12) You testified that, had you received notice of the renewal process, you would have updated your Marketplace account as required so that your children's coverage did not lapse, which resulted in a gap in their health insurance coverage.
- 13) You testified that, because of your children's lapse in health insurance coverage, you incurred \$446.66 in medical expenses for your child's care, for which you do not feel you should be responsible.
- 14) According to your Marketplace account, your October 21, 2015 updated application was processed and your children were determined eligible to enroll through CHP, effective December 1, 2015.
- 15) According to your Marketplace account, on October 22, 2015, the Marketplace denied your request to have your 11 year-old child's coverage backdated to September 1, 2015 because the CHP program cannot pay for any care he received in the past.
- 16) You testified that you want your 11 year-old child's CHP coverage to be backdated to September 1, 2015, because the Marketplace did not send you the 2015 notices via the delivery method you had elected.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, the Marketplace is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

The Marketplace must send an annual renewal notice that contains the information by which the Marketplace will use to redetermine a qualified individual's eligibility for that year (45 CFR § 155.335(c)(3)). The notice must allow a reasonable amount of time for the qualified individual to respond and for the Marketplace to implement any changes that the individual has elected (45 CFR § 155.335(d)(2)(ii)). If a qualified individual does not respond to the notice after a 30-day period, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (45

CFR § 155.335(h)(i)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year (45 CFR § 155.335(i)).

Election of Receipt of Notices

Applicants may choose to receive notices and information from the Marketplace by either electronic or regular mail. 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 regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Child Health Plus – Enrollment Start Date

“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)).

In New York State, Child Health Plus benefits are furnished “By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month” (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

Legal Analysis

The issue is whether the Marketplace properly determined that your children's enrollment in their Child Health Plus plan was effective December 1, 2015 when you are seeking a September 1, 2015 start date, at least as to your one child.

Children enrolled in Medicaid are generally entitled to 12 months continuous coverage under Medicaid. In the case of your children, the record reflects that they were enrolled in fee-for-service Medicaid as of September 1, 2014 and an MMC plan from October 1, 2014 to August 31, 2015, such that they had 12 months total of continuous coverage under Medicaid.

Generally, the Marketplace must redetermine children's eligibility for financial assistance once every twelve months without requiring information from the account holder if able to do so based on reliable information contained in the account or other more current information available to the agency. The Marketplace's July 14, 2015 renewal notice

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).

stated that there was not enough information to determine whether your children were eligible for financial assistance for health insurance coverage in 2015, and that you needed to supply additional information regarding your household's income by August 15, 2015 or their eligibility for financial assistance and to enroll in a health plan might end.

Because there was no timely response to this notice, in that your Marketplace account was not updated by the August 15, 2015 deadline, your children's coverage under their MMC plan was terminated effective August 31, 2015, after the then effective 12 months of Medicaid coverage had ended. Also, because your Marketplace account did not reflect that you had responded to this notice, the Marketplace was unable to verify your household's income and it was required to determine your children's eligibility without verification of your household's income. As a result, the Marketplace properly determined that your children were not eligible for financial assistance and could not enroll in a qualified health plan through NY State of Health, as of August 31, 2015, because you did not timely provide the income information requested by the Marketplace to verify their eligibility.

Ordinarily, in New York State, consistent with federal regulation, if an application for CHP insurance coverage is received before the 15th of the month, benefits are provided on the first day of the following month and, if received after the 15th of the month, benefits are provided the first day of the second following month. In your case, you selected your children's CHP plan on October 21, 2015, such that the enrollment start date of December 1, 2015 in their CHP plan would, under normal circumstance, be correct.

However, you credibly testified that you did not receive the 2015 notices via standard mail, did not elect to receive email alerts because your cellular telephone coverage of your email is spotty where you live in Oswego County and you do not own a computer, and you did not know how or why your initial application indicated that you had elected electronic communication when you had not. Further, your Marketplace account does not contain an initial notice to support that you had elected to receive information from the Marketplace electronically.

In addition, the Marketplace representative confirmed in the October 21, 2015 recorded telephone conversation that you were only given electronic notice that the July 14, 2015 renewal notice, the August 17, 2015 redetermination notice, and the August 18, 2015 disenrollment notice were available in your Marketplace account and required your attention, and were not sent notices via standard mail. You also credibly testified that had you received proper notice on time, you would have updated your Marketplace account immediately and selected a CHP plan for your children, as you had on October 21, 2015, so as to avoid a lapse and resultant gap in their CHP coverage.

Based on the foregoing, the record as a whole does not support that you had elected to receive communications from the Marketplace electronically and, therefore, you did not

receive proper or timely notice of your obligations at the time of renewal or disenrollment.

Therefore, and since it is only equitable to apply this decision to both of your children, the October 22, 2015 notices of eligibility redetermination and enrollment are MODIFIED to state that your children are each eligible to enroll in CHP with a \$9.00 monthly premium, effective September 1, 2015, and are enrolled in the Fidelis Care CHP Plan you selected, effective September 1, 2015.

Your case is RETURNED to the Marketplace to effectuate your children's enrollment in their CHP plan as of September 1, 2015, and to notify you accordingly.

You will be responsible for premium payments, if any are due, for the months of September, October, and November 2015 for both of your children.

After the Marketplace has confirmed your children's September 1, 2015 enrollment date in the Fidelis Care CHP Plan and their monthly premiums are paid, you may process your outstanding claims with your children's CHP plan.

Decision

The October 22, 2015 notices of eligibility redetermination and enrollment are MODIFIED to state that your children are each eligible to enroll in CHP with a \$9.00 monthly premium, effective September 1, 2015, and are enrolled in the Fidelis Care CHP Plan you selected, effective September 1, 2015.

Your case is RETURNED to the Marketplace to effectuate your children's enrollment in their CHP plan as of September 1, 2015, and to notify you accordingly.

Effective Date of this Decision: January 27, 2016

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility for CHP or your monthly premium contribution of \$9.00.

It does change the effective dates of your children's eligibility for CHP and their enrollment start date in their CHP plan to September 1, 2015.

Your case is being RETURNED to the Marketplace to effectuate your children's CHP coverage start date as of September 1, 2015. The Marketplace will notify you accordingly.

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 will be responsible for premium payments, if any are due, for the months of September, October, and November 2015 for both of your children.

After the Marketplace has confirmed your children's September 1, 2015 enrollment date in the Fidelis Care CHP Plan and their monthly premiums are paid, you may process your outstanding claims with your children's CHP plan.

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

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).

Summary

The October 22, 2015 notices of eligibility redetermination and enrollment are MODIFIED to state that your children are each eligible to enroll in CHP with a \$9.00 monthly premium, effective September 1, 2015, and are enrolled in the Fidelis Care CHP Plan you selected, effective September 1, 2015.

Your case is RETURNED to the Marketplace to effectuate your children's enrollment in their CHP plan as of September 1, 2015, and to notify you accordingly.

This decision does not change your children's eligibility for CHP or your monthly premium contribution of \$9.00.

It does change the effective date of your children's eligibility for CHP and their enrollment start date in their CHP plan to September 1, 2015.

Your case is being RETURNED to the Marketplace to effectuate your children's CHP coverage start date as of September 1, 2015. The Marketplace will notify you accordingly.

You will be responsible for premium payments, if any are due, for the months of September, October, and November 2015 for both of your children.

After the Marketplace has confirmed your children's September 1, 2015 enrollment date in the Fidelis Care CHP Plan and their monthly premiums are paid, you may process your outstanding claims with your children's CHP plan.

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:

