



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

Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005062

[REDACTED]

Dear [REDACTED],

On January 19, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 4, 2015 eligibility determination notice and the October 31, 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 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 determine that your son was no longer eligible to enroll in a qualified health plan, effective October 31, 2015?

Did the Marketplace properly determine that your son's enrollment in his Child Health Plus plan was effective December 1, 2015?

Procedural History

On June 15, 2015 you added your son to your Marketplace account.

On June 18, 2015 the Marketplace issued a notice of eligibility determination stating that your son was conditionally eligible to purchase a qualified health plan at full cost, effective June 1, 2015. The notice further directed you to provide documentation confirming your son's citizenship status and Social Security number before September 15, 2015 or he might lose his eligibility for health insurance or financial assistance.

Also on June 18, 2015 the Marketplace issued a notice confirming your son's enrollment in a child-only qualified health plan.

On October 4, 2015, the Marketplace issued a notice of eligibility redetermination stating that your son was no longer eligible to enroll in a qualified health plan at full cost through the Marketplace because you had not confirmed his citizenship

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status or Social Security number within the required time frame. His eligibility for coverage would end effective October 31, 2015.

Also on October 4, 2015 the Marketplace issued a disenrollment notice stating that your son's enrollment in his child-only qualified health plan was terminated effective October 31, 2015.

On October 29, 2015 your son's Social Security number was added to your Marketplace application.

On October 30, 2015 the Marketplace issued an eligibility determination notice stating that your son was eligible to enroll in Child Health Plus with a \$60.00 per month premium effective December 1, 2015.

Also on October 30, 2015 you enrolled your son into a Child Health Plus plan.

Finally on October 30, 2015 you spoke with the Marketplace's Account Review Unit and appealed the October 4, 2015 eligibility determination and disenrollment notice insofar as your son would not have health coverage for the month of November 2015.

On October 31, 2015 the Marketplace issued an enrollment confirmation notice stating that your son's enrollment in his Child Health Plus plan could start as early as December 1, 2015 if you pay the first month's premium.

On January 19, 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) According to the application that was submitted on June 15, 2015, your son did not have a Social Security number because he was in the process of applying for one.
- 2) You testified that you were told by a Marketplace representative that you would need to provide your son's Social Security number once he was issued one.
- 3) The Marketplace issued a notice on July 18, 2015 stating that your son was conditionally eligible to purchase a qualified health plan at full cost but that you needed to provide documentation confirming your son's

citizenship status and Social Security number before September 15, 2015.

- 4) You testified, and your Marketplace account confirms, that you elected to receive notifications via electronic mail.
- 5) You testified that you received emails from the Marketplace alerting you that there were messages waiting for you in your Marketplace inbox.
- 6) You testified that you checked your Marketplace inbox but the notices that you opened looked like form letters so you ignored them.
- 7) The record reflects that prior to being disenrolled, your son was enrolled in a full-pay child-only qualified health plan.
- 8) The record reflects that on October 29, 2015 a financial assistance application that included your son's Social Security number was filed.
- 9) The record reflects that you enrolled your son into a Child Health Plus plan on October 30, 2015.

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 expects 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)). Furthermore, the Marketplace must require an applicant who has a Social Security number to provide such a number (45 CFR § 155.310(a)(3)(i)).

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 validation of Social Security numbers and the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a),(b), (c)).

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 to provide satisfactory documentary evidence, from

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the date the notice of inconsistency is received by the applicant. Notice is considered 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)).

Electronic 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 (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Child Health Plus

“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 first issue under review is whether the Marketplace properly determined that your son was no longer eligible to enroll in a qualified health plan through the Marketplace, effective October 31, 2015.

According to the application that was submitted on June 15, 2015, your son did not have a Social Security number but was in the process of applying for one.

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 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 July 18, 2015 you were advised that your son's eligibility was only conditional, and that you needed to confirm his citizenship status and Social Security number before September 15, 2015 or he might lose his eligibility for health insurance or financial assistance. Furthermore, you testified that you were told by a Marketplace representative that you would need to provide your son's Social Security number once he was issued one.

You testified, and your Marketplace account confirms, that you elected to receive your communication from the Marketplace via electronic mail. You testified that you received emails from the Marketplace alerting you that there was message waiting in your Marketplace inbox.

You testified that you checked your Marketplace inbox but the notices that you opened looked like form letters so you ignored them.

Even though you did not read the notices, the Marketplace still alerted you that they were there and nothing prevented you from fully reading the notices. Therefore, you received proper notice that you needed to provide your son's Social Security number and citizenship before September 15, 2015.

Since the requested documentation was not received within the 90 day period, the Marketplace was required to redetermine your son's eligibility without verification of his citizenship status or Social Security number. As a result, the Marketplace properly determined that your son could not enroll in a qualified health plan effective October 31, 2015 because you did not provide the information that was requested within the required timeframe.

Therefore, the Marketplace's October 4, 2015 eligibility determination is correct and is AFFIRMED.

The second issue under review is whether the Marketplace properly determined that your son's enrollment in his Child Health Plus plan was effective December 1, 2015.

The record indicates that on October 29, 2015 you submitted an updated application which included your son's Social Security number to the Marketplace. Your son was subsequently found eligible for Child Health Plus and he was enrolled in a Child Health Plus plan on October 30, 2015.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received after the 15th of the month, benefits are provided on "the first day of the subsequent month."

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Since your son was not enrolled into a Child Health Plus plan until October 31, 2015, his Child Health Plus plan would have taken effect on first day of the subsequent month, December 1, 2015. Therefore, the October 31, 2015 enrollment confirmation notice is AFFIRMED because it properly began your son's enrollment in his Child Health Plus plan on December 1, 2015.

Decision

The October 4, 2015 eligibility determination notice is AFFIRMED.

The October 31, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 16, 2016

How this Decision Affects Your Eligibility

Your son's enrollment in his child-only qualified health plan was properly terminated as of October 31, 2015.

Your son's enrollment in his Child Health Plus plan is effective December 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 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:
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Summary

The October 4, 2015 eligibility determination notice is AFFIRMED.

The October 31, 2015 enrollment confirmation notice is AFFIRMED.

Your son's enrollment in his child-only qualified health plan was properly terminated as of October 31, 2015.

Your son's enrollment in his Child Health Plus plan is effective December 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

