



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: AP000000005212

[REDACTED]

Dear [REDACTED],

On January 26, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 17, 2015 eligibility determination and November 25, 2015 enrollment notices.

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).

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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Appeal Identification Number: AP000000005212



Issue

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

Did the Marketplace properly determine that your child is not eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through the Marketplace as of October 31, 2015?

Did the Marketplace properly determine that your children's Child Health Plus (Fidelis Care) enrollment start date should be January 1, 2016?

Procedural History

On September 15, 2015 the Marketplace issued a notice stating that the New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage your children could have for next year. The notice directs you to return to your account by October 15, 2015 to provide more information or the financial assistance you are receiving may end.

On October 17, 2015 the Marketplace issued a notice of eligibility determination stating that your child is not eligible for Medicaid, Child Health Plus, receive tax credits or cost-sharing reductions, or enroll in a qualified health plan at full cost through the Marketplace, because you did not complete your renewal within the required timeframe. The notice states that their eligibility will end effective October 31, 2015.

On the same day the Marketplace issued a disenrollment notice that your child's coverage with Excellus Health Plan, Inc. will end October 31, 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 November 16, 2015 your Marketplace account was updated. The Marketplace rendered a preliminary eligibility determination that your child was eligible for Child Health Plus with a \$9.00 premium per month.

On November 16, 2015 you spoke to the Marketplace's Account Review Unit and requested an appeal in regard to the enrollment start date of your child's health insurance coverage through Fidelis Care.

On November 22, 2015 the Marketplace issued an eligibility determination notice that your children are eligible to enroll in Child Health Plus for a cost of \$9.00 per month effective January 1, 2016.

On November 25, 2015 the Marketplace issued an enrollment notice confirming that on November 16, 2015 your child was enrolled in Child Health Plus (Fidelis Care) and the plan enrollment start date was January 1, 2016.

On January 26, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

Findings of Fact

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

1. You are applying for health insurance for your one-year-old child.
2. According to your Marketplace account, your child was enrolled in a Medicaid Managed Care (Excellus Health Plan, Inc.) insurance plan from January 1, 2015 through October 31, 2015.
3. You testified that you did not receive any notices from the Marketplace regarding the need to renew your child's information to ensure that your children's coverage would not be interrupted.
4. You testified that the email listed in your Marketplace account is your current email address.
5. You testified that you first became aware that your child was disenrolled from their Excellus Health Plan, Inc. in November 2015.
6. You enrolled your child on November 16, 2015 in Child Health Plus (Fidelis Care) and the plan enrollment start date was January 1, 2016.
7. You testified that you have outstanding medical bills because your child did not have health insurance in November and December 2015.

8. According to your Marketplace account, you receive notices from the Marketplace electronically.

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

Applicable Law and Regulations

Medicaid/Child Health Plus Renewal:

In general, the Marketplace must review Medicaid and Child Health Plus eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2), 42 CFR § 457.343).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918, 42 CFR § 457.110(a)(1)).

Legal Analysis

The Marketplace must determine an applicant's eligibility promptly and without undue delay and then provide a timely notice to the applicant of the eligibility determination made. The applicant must be notified if the application does not contain sufficient information to permit the Marketplace to conduct an eligibility determination for enrollment in a qualified health plan (QHP) or insurance affordability programs through the Marketplace.

On September 15, 2015 the Marketplace issued a notice stating that New York State of Health did not have enough information from federal and state data sources to determine if you could get help paying for your child's insurance or what kind of coverage your child could have for next year. The notice directed you to return to your account by October 15, 2015 and provide more information.

On October 17, 2015 the Marketplace issued a notice of eligibility determination stating that your children were not eligible to enroll in a plan or receive financial assistance because you did not complete the renewal within the required timeframe.

On the same day the Marketplace issued a disenrollment notice that your child's coverage with Excellus Health Plan, Inc. will end effective October 31, 2015.

On November 16, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal with respect to the start date of your child's health insurance coverage through Child Health Plus (Fidelis Care).

On November 25, 2015, the Marketplace issued a notice confirming your child's enrollment in Fidelis Care with an enrollment start date of January 1, 2016.

Since you elected to receive communications from the Marketplace electronically, the Marketplace was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The September 15, 2015 renewal notice was posted to your account, but the record contains no evidence that the Marketplace sent the required e-mails to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive e-mails telling you that the notices were available in your Marketplace account and that you did not find out that your child did not have health insurance until November 2015.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding termination of your child's health insurance coverage.

Accordingly, the October 17, 2015 notice stating that your child is not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is RESCINDED.

The November 25, 2015 enrollment notice is MODIFIED to state that your child's health insurance coverage through Fidelis Care will begin November 1, 2015.

Decision

The notice of eligibility determination issued on October 17, 2015 is RESCINDED.

The November 25, 2015 notice of eligibility determination is MODIFIED to state that your child's insurance coverage through Fidelis Care will begin November 1, 2015.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Eligibility

Your child are is enrolled in Child Health Plus (Fidelis Care) effective 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.

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

Summary

The notice of eligibility determination issued on October 17, 2015 is **RESCINDED**.

The November 25, 2015 notice of eligibility determination is **MODIFIED** to state that your child's insurance coverage through Fidelis Care will begin November 1, 2015.

Your child are is enrolled in Child Health Plus (Fidelis Care) effective November 1, 2015.

Legal Authority

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

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 Copy of this Decision Has Been Provided To:

