



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

Notice of Decision

Decision Date: February 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005347

[REDACTED]

Dear [REDACTED],

On February 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's disenrollment of your youngest child from her Child Health Plus plan as of November 30, 2015.

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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Decision

Decision Date: February 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005347

[REDACTED]

Issue

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

Did the Marketplace properly determine that your child's coverage through Child Health Plus ended on November 30, 2015?

Procedural History

On January 7, 2015, you added your youngest child to your Marketplace account and an application was submitted on her behalf that day.

On January 8, 2015, the Marketplace issued an eligibility determination notice stating that your youngest child was conditionally eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective February 1, 2015.

Also on January 8, 2015, the Marketplace issued an enrollment confirmation notice confirming your youngest daughter's enrollment in a Child Health Plus plan.

On March 17, 2015 the Marketplace issued an eligibility determination notice stating that your youngest child was eligible to enroll in Child Health Plus with a \$30.00 monthly premium.

On November 9, 2015, you accessed your online Marketplace account and updated the information it contained. When you accessed your account, your youngest child's enrollment in coverage was deleted.

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On November 10, 2015, the Marketplace issued a notice stating that your youngest child continued to be eligible for Child Health Plus with a monthly premium of \$30.00, effective December 1, 2015.

On November 25, 2015, your online account was again updated. Your youngest daughter was determined eligible for Child Health Plus with a monthly premium of \$30.00, effective January 1, 2016. That day she was also reenrolled into her Child Health Plus.

That same day, you spoke to the Marketplace's Account Review Unit and appealed the gap in coverage your child experienced from her disenrollment and reenrollment into Child Health Plus, insofar as it left her without coverage for December 2015.

On December 4, 2015, the Marketplace issued an eligibility determination notice and enrollment confirmation notice stating that your youngest child was eligible for Child Health Plus, with a premium of \$30.00 per month, effective January 1, 2016.

On February 8, 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 only your youngest child's eligibility.
- 2) You testified that on or about February 21, 2015, you enrolled your youngest child in a Child Health Plus plan through the Marketplace.
- 3) You testified that you have consistently paid all of your youngest child's premiums two months in advance, and that you paid for December 2015's premium in October 2015.
- 4) You testified that you logged into your online Marketplace account on November 9, 2015 because you were trying to update your profile information with regard to coverage for your other two children, who are not the subject of this appeal.
- 5) You testified that, on November 9, 2015, you believe you may have selected "no" next to the question asking if your youngest child needed

health insurance, because you knew she already had coverage and were not attempting to reapply for coverage for her.

- 6) You testified that you were not asked by the online system to confirm that you wanted to terminate your youngest child's coverage, nor did you receive any sort of notification from the website or via email that you had requested to have your youngest child's coverage terminated.
- 7) The record reflects that no disenrollment notices were issued informing you that your youngest child's coverage had been discontinued effective November 30, 2015.
- 8) You testified that you were not aware that your youngest child's health insurance had been terminated until approximately two weeks after you updated your online account, when you received an email from your youngest child's health plan stating that her insurance was cancelled.
- 9) You testified that you called the health plan the same day you received this email, and were referred to contact the Marketplace, which you did the following day.
- 10) You testified that when you contacted the Marketplace, you were informed that they could not cancel the November 9, 2015 disenrollment of your youngest child because it was done on the website.
- 11) You testified that you re-enrolled your child in coverage that same day, however, because it was after November 15, 2015, you could not enroll her for coverage for December 2015.
- 12) You testified your child experienced a gap in her Child Health Plus coverage for the month of December 2015.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) 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 to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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The “period of eligibility” for CHP 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 CHP premiums are not timely paid or 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

The issue is whether the Marketplace properly determined that your child’s enrollment in her CHP plan ended effective November 30, 2015.

On January 8, 2015, the Marketplace issued a notice of eligibility determination stating that, effective February 1, 2015, your child could enroll through CHP with a premium of \$30.00 per month. That eligibility determination has not been appealed and is not under review here.

Since the period of your child’s CHP eligibility began on February 1, 2015, it continues until January 31, 2016, unless an event occurs to disqualify her from CHP eligibility. Voluntary disenrollment is one event that will terminate the twelve month period of eligibility. The record indicates that one of the updates you made to your online account on November 9, 2015 caused your youngest child to be disenrolled from her CHP coverage.

However, you testified at the hearing that you did not have any intention of disenrolling your child from her CHP coverage when you accessed your account on November 9, 2015, but were actually attempting to apply for coverage for your other two children. You testified that the system never asked you to confirm that you wanted to disenroll your youngest child. Additionally, the record is void of any notices informing you that your youngest child was disenrolled.

Your credible testimony that you did not want to disenroll your youngest child, and that you had in fact already paid the premium for her December 2015 coverage, supports a finding that you did not voluntarily disenroll your youngest child from her coverage.

Additionally, the failure of the Marketplace to send any notice confirming your youngest daughter’s disenrollment caused a delay such that, by the time you realized her coverage had ended, you were unable to re-enroll her in time for December 2015 coverage.

Therefore, there was no event that should have caused your youngest child’s twelve months of continuous CHP coverage to terminate. According to the

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credible evidence of record, your child's CHP coverage should not have ended effective November 30, 2015.

Your case is RETURNED to the Marketplace to ensure that your youngest child's CHP coverage is restored effective December 1, 2015.

Decision

Your case is RETURNED to the Marketplace to ensure that your youngest child's CHP coverage is restored effective December 1, 2015 so that there is no gap in her coverage.

Effective Date of this Decision: February 24, 2016

How this Decision Affects Your Eligibility

Your youngest child's CHP coverage should not have ended on November 30, 2015.

Your youngest child's CHP coverage is restored, effective December 1, 2015, so that she does not have a gap in coverage.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the month she experienced a gap in coverage.

Your youngest child's CHP coverage that began on January 1, 2016 remains in effect.

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

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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
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Summary

Your case is RETURNED to the Marketplace to ensure that your youngest child's CHP coverage is restored effective December 1, 2015 so that there is no gap in her coverage.

Your youngest child's CHP coverage should not have ended on November 30, 2015.

Your youngest child's CHP coverage is restored, effective December 1, 2015, so that she does not have a gap in coverage.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the month she experienced a gap in coverage.

Your youngest child's CHP coverage that began on January 1, 2016 remains in effect.

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A Copy of this Decision Has Been Provided To:

