



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

Notice of Decision

Decision Date: April 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005868

[REDACTED]

Dear [REDACTED],

On March 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 21, 2015 eligibility redetermination notice and December 24, 2015 disenrollment notice regarding your children.

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 (CFR) 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 children's coverage through Child Health Plus ended on December 31, 2015?

Did the Marketplace properly determine that your children's re-enrollment in their Child Health Plus plan should be effective February 1, 2016?

Procedural History

According to your Marketplace account, your two minor children were enrolled in Child Health Plus at full cost beginning January 1, 2014 and switched Child Health Plus plans as of April 1, 2014 to United Healthcare Community Plan, through which your children had coverage for the remainder of 2014 and throughout 2015 until December 31, 2015.

On October 24, 2015, the Marketplace issued a renewal notice that stated, based on federal and state data sources, a decision could not be made about whether or not you, your spouse, and your two children qualified for financial assistance in 2016. You were instructed by that notice to update your Marketplace application by December 15, 2015 and informed that, if you missed this deadline, the financial assistance your family was currently getting might end.

Your Marketplace account was not updated by December 15, 2015.

On December 21, 2015, the Marketplace issued an eligibility redetermination notice that stated your two children were not qualified to enroll through NY State

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of Health because you did not respond to the renewal notice and did not complete the renewal within the required timeframe such that they no longer qualified to receive financial assistance to help pay for your health coverage. The notice further stated their eligibility would end December 31, 2015 but if their circumstances change they may re-apply for health insurance.

On December 24, 2015, the Marketplace issued a disenrollment notice that in part stated your children's health coverage through their Child Health Plus plan would end December 31, 2015.

On December 30, 2015, the Marketplace prepared a preliminary redetermination regarding your two children based on your updated application by telephone that day and found that they were eligible enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective February 1, 2016.

That same day, you spoke to a representative from the Marketplace's Account Review Unit and appealed your children's eligibility start date insofar as you wanted them to be eligible for and enrolled in a Child Health Plus plan, effective January 1, 2016.

On December 31, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the December 30, 2015 preliminary redetermination.

Also on December 31, 2015, the Marketplace issued an enrollment notice confirming in part that your children were enrolled in a Child Health Plus plan through United Healthcare Community Plan with a total monthly premium of \$384.52 and a plan enrollment start date of February 1, 2016.

On March 24, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for you to submit invoices from United Healthcare Community Plan.

On March 24, 2016, the Appeals Unit received a seven-page facsimile from you, which was made part of the record as "Appellant's Exhibit A." The record was closed that same day.

Findings of Fact

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

- 1) According to your Marketplace account, you and your spouse expected to file your 2015 and 2016 federal tax return as married filing jointly and will claim your two children as dependents on those returns.

- 2) According to your Marketplace account, your household's expected annual income has consistently been \$250,000.00, as reported on your applications dated March 8, 2014, November 3, 2014, and December 30, 2015.
- 3) According to your Marketplace account, you elected to receive notices from the Marketplace via standard mail.
- 4) According to your Marketplace account and your testimony at hearing, your mailing address has always been the address listed on the address line of this decision.
- 5) According to your Marketplace account, your children were enrolled in Child Health Plus plans at full cost from January 1, 2014 to December 31, 2014 and from January 1, 2015 to December 31, 2015.
- 6) You testified and provided documentary proof that you receive invoices from United Healthcare Community Plan for your children's Child Health Plus plan via standard mail in advance of the month of coverage and always paid in advance, including for coverage in January 2016 (Appellant's Exhibit A).
- 7) You testified that, during the month of October 2015, you only received an October 8, 2015 invoice in the mail for the November 2015 premium payment from United Healthcare Community Plan and did not receive the October 24, 2015 renewal notice in the mail from the Marketplace (see, Appellant's Exhibit A, p.3).
- 8) You further testified that had you received the renewal notice, you would not have disregarded it and would have updated your Marketplace application within the required timeframe to recertify your children's eligibility to enroll in Child Health Plus for 2016.
- 9) You testified that your past record shows that your children have been enrolled consistently for two years and that you always paid the monthly premium in advance.
- 10) You testified that you think it is not your responsibility that you did not receive the October 24, 2015 renewal notice.
- 11) You testified that you contacted the Marketplace immediately upon receiving the December 21, 2015 notices by standard mail on December 30, 2015. Your Marketplace account corroborates that you contacted the Marketplace on December 30, 2015.

- 12) According to the recording of your telephone conversation on December 30, 2015, the Marketplace representative confirmed that the October 24, 2015 renewal notice had been placed in your Inbox and an email alert had been sent, which you were expected to review and access the notice in your Marketplace account.
- 13) You testified that you did not receive an email alert from the Marketplace in October 2015 and confirmed that the email address listed on your Marketplace account was correct.
- 14) You testified, and the record reflects, that you enrolled your two children into a Child Health Plus plan through the Marketplace on December 30, 2015, with an enrollment start date of February 1, 2016.
- 15) You testified and provided documentary evidence that you paid in full and in advance the January 2016 premium to your children's Child Health Plus plan. You testified and provided documentary proof that United Healthcare Community Plan applied that premium payment to the February 2016 premium (Appellant's Exhibit A, pp. 5-7).
- 16) You testified that because you were not timely notified of the need to renew your Marketplace application, your children experienced a gap in their Child Health Plus coverage for the month of January 2016.
- 17) You testified that your older child had necessary lab work done in January 2016 for which you are being billed directly at approximately \$600.00.
- 18) You are seeking to have your children's Child Health Plus plan re-instated for the month of January 2016.

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, when the Marketplace conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, 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 Code of Federal Regulations (CFR) § 155.335(a), (b)).

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The Marketplace must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). 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 and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). The Marketplace must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

Child Health Plus

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 CHP 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 § 2510(6)).

"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)).

The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your children's disenrollment in their Child Health Plus plan was effective December 31, 2015 and their re-enrollment in that plan was effective February 1, 2016.

In 2015, your children were found eligible for Child Health Plus and enrolled in a Child Health Plus plan with United Healthcare Community, effective January 1, 2015 and were entitled to and had 12 months of continuous coverage through December 31, 2015.

Generally, the Marketplace must redetermine qualified children's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. The Marketplace's October 24, 2015 renewal notice stated in part that there was not enough information to determine whether your children were eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their Child Health Plus plan, effective December 31, 2015 as stated in the December 21, 2015 eligibility redetermination notice and December 24, 2015 disenrollment notice.

However, you testified and the record reflects that you elected to receive notices from the Marketplace via standard mail. You credibly testified that you did not receive the October 24, 2015 renewal notice in the mail that directed you to update the information in your Marketplace account on behalf of your children and would have responded had you received that notice via standard mail. In addition, review of the December 30, 2015 recording of the telephone conversation between you and a Marketplace representative indicated that the October 24, 2015 renewal notice was sent via email alert, which the representative stated you were expected to review and then access your Marketplace account to review the notice. You credibly testified that you did not receive an email alert either. We further note that there is no evidence in your Marketplace account documenting that any email alert was sent to you regarding the need to renew your children's application.

Therefore, it is concluded that the Marketplace did not give you the proper notice that you needed to update your account on your children's behalf.

You first renewed your child's eligibility for financial assistance through the Marketplace for the new coverage year of 2016 on December 30, 2015. According to the December 30, 2015 recorded telephone conversation and your

credible testimony at hearing, your household income and size and all other relevant information in your Marketplace application had remained constant and was applicable before December 15, 2015 deadline and would have been reported had you been timely informed of the need to update your account.

Therefore, the December 31, 2015 eligibility redetermination notice is MODIFIED to state that, effective January 1, 2016, your children were eligible to enroll in Child Health Plus at full cost, and the December 31, 2015 enrollment notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective January 1, 2016.

You will be responsible for the full cost of premium for January 2016.

Decision

The December 31, 2015 eligibility redetermination notice is MODIFIED to state that, effective January 1, 2016, your children are eligible to enroll in Child Health Plus at full cost.

The December 31, 2015 enrollment notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective January 1, 2016.

Your case is RETURNED to the Marketplace to effectuate the changes listed above.

Effective Date of this Decision: April 11, 2016

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in their Child Health Plus plan is being made effective as of January 1, 2016.

Your case is being sent back to the Marketplace to reinstate your children into their Child Health Plus plan as of January 1, 2016.

You will be responsible for the full cost of premium for January 2016.

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 December 31, 2015 eligibility redetermination notice is MODIFIED to state that, effective January 1, 2016, your children are eligible to enroll in Child Health Plus at full cost.

The December 31, 2015 enrollment notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective January 1, 2016.

Your case is RETURNED to the Marketplace to effectuate the changes listed above.

Your children's eligibility for and enrollment in their Child Health Plus plan is being made effective as of January 1, 2016.

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Your case is being sent back to the Marketplace to reinstate your children into their Child Health Plus plan as of January 1, 2016.

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:

