



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

Notice of Decision

Decision Date: March 30, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005899

[REDACTED]

Dear [REDACTED],

On March 24, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 14, 2016 and March 8, 2016 eligibility determination 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 and the NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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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Issue

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

Did the Marketplace properly determine that your children were not eligible for Child Health Plus as of January 1, 2016?

Did the Marketplace properly determine that you were not eligible for enrollment in the Essential Plan for the month of January 2016?

Procedural History

On December 31, 2015 the Marketplace received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that you were eligible to enroll in the Essential Plan, and your two children were eligible to enroll in Child Health Plus.

Also on December 31, 2015, you contacted the Marketplace's Account Review Unit and requested an appeal insofar as you and your children did not have coverage effective for the month of January 2016.

On January 1, 2016 the Marketplace issued a notice of eligibility determination, based on the December 31, 2015 application, stating that you were eligible to enroll in the Essential Plan, and your two children were eligible to enroll in Child Health Plus, effective February 1, 2016.

On February 14, 2016 the Marketplace issued a notice of eligibility determination stating that your children do not qualify for Child Health Plus because federal and

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state data sources show that they were already enrolled in Medicaid, Child Health Plus, or another program.

On March 8, 2016 the Marketplace issued a notice of eligibility determination stating that you do not qualify for the Essential Plan because you have access to affordable employer-sponsored coverage that meets minimum value.

On March 24, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your appeal was amended to include the February 14, 2016 and March 8, 2016 eligibility determination notices. 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 that when you originally filed your appeal you were seeking coverage for the month of January for yourself and your two children in order to ensure that there was no gap in coverage.
- 2) You testified that your children have been enrolled in Medicaid through your Local Department of Social Services as of January 1, 2016 and that you were told that this coverage would continue until December 2016.
- 3) You testified that you do not want your children to have Medicaid and want the coverage through the Local Department of Social Services to be cancelled so that they can have Child Health Plus coverage through the Marketplace.
- 4) You testified that as of March 1, 2016 you became enrolled in employer sponsored health insurance coverage through your spouse's job.
- 5) You testified that you were told that you should have not been found eligible for the Essential Plan because you could have enrolled in an employer sponsored plan.

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

Applicable Law and Regulations

Child Health Plus

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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)).

Essential Plan

The Marketplace must determine an applicant eligible for the Essential Plan if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable poverty level (FPL) or in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is under the age of 64, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e)).

Minimum essential coverage is defined in federal law USC § 5000A(f) and the regulations issued under that section. As described under that section, government-sponsored programs, eligible employer-sponsored plans, grandfathered health plans, and certain other health benefits coverage are minimum essential coverage (26 § CFR 1.36B-2(c)(1)).

Generally, an individual who may enroll in an eligible employer-sponsored plan is eligible for minimum essential coverage under the plan for any month only if the plan is affordable and provides minimum value (see 26 CFR § 1.36B-2(c)(3)(i)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your children were not eligible for Child Health Plus as of January 1, 2016.

On January 1, 2016 the Marketplace issued a notice of eligibility determination stating your two children were eligible to enroll in Child Health Plus, effective February 1, 2016. You testified that you originally appealed the start date of your children’s Child Health Plus coverage because they had a gap in health insurance coverage for January 2016.

On February 14, 2016 the Marketplace issued a notice of eligibility determination stating that your children do not qualify for Child Health Plus because federal and state data sources show that they are already enrolled in Medicaid, Child Health Plus, or another program. You testified that your children have been enrolled in

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Medicaid through your Local Department of Social Services as of January 1, 2016 and that you were told that this coverage would continue until December 2016.

You testified that you want your children enrolled in health coverage through Child Health Plus and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus. Furthermore, the New York State of Health Appeals Unit does not have the authority to direct the Local Department of Social Services to discontinue or alter eligibility for individuals who are enrolled in coverage through them.

Since your children had Medicaid coverage during the month of January and according to your testimony, they will continue to have Medicaid coverage until December 2016, they are not eligible for Child Health Plus through the Marketplace as of January 1, 2016.

Therefore, the February 14, 2016 eligibility determination is AFFIRMED.

The second issue under review is whether the Marketplace properly determined that you were not eligible for enrollment in the Essential Plan for the month of January 2016.

On January 1, 2016, the Marketplace issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective February 1, 2016. You testified that through this appeal you were initially seeking to be found eligible to enroll in the Essential Plan as of January 1, 2016. You testified that you were told that you should not have been eligible for the Essential Plan because you could have enrolled in an employer sponsored plan. On March 8, 2016 the Marketplace issued a notice of eligibility determination stating that you do not qualify for the Essential Plan because you have access to affordable employer-sponsored coverage that meets minimum value.

To be eligible for the Essential Plan an individual must not be eligible for minimum essential coverage except through the Marketplace. You testified that as of March 1, 2016 you became enrolled in employer sponsored health insurance coverage through your spouse's job.

Since you could have enrolled in employer sponsored insurance in the month of January 2016 if you had chosen to do so, and there is no evidence that your employer-sponsored insurance plan is not affordable or does not comply with the requirements of minimum essential coverage, you would not have been eligible to enroll in the Essential Plan in the month of January 2016.

Therefore, the March 8, 2016 eligibility determination is AFFIRMED.

Decision

The February 14, 2016 eligibility determination is AFFIRMED.

The March 8, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: March 30, 2016

How this Decision Affects Your Eligibility

You and your children were not eligible for enrollment in a health plan through the Marketplace in the month of 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.

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

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- By mail at:
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Summary

The February 14, 2016 eligibility determination is AFFIRMED.

The March 8, 2016 eligibility determination is AFFIRMED.

You and your children were not eligible for enrollment in a health plan through the Marketplace in the month of January 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

