



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

## Notice of Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001514

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On March 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 16, 2014, disenrollment 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 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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## Decision

Decision Date: June 16, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001514

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly terminate your two daughters' health insurance coverage with CDPHP effective October 31, 2014?

## Procedural History

On May 23, 2014, the Marketplace received your application for health insurance.

On that same day the Marketplace issued an eligibility determination notice stating that you, your husband [REDACTED] [REDACTED] [REDACTED] [REDACTED] were eligible for Medicaid with an effective date of May 1, 2014.

On July 3, 2014, the Marketplace issued a notice conforming that you and your family have been enrolled in CDPHP with an effective date of July 1, 2014.

On October 15, 2014, you contacted the Marketplace to update your Marketplace account to include your [REDACTED] who was born on [REDACTED].

On that same day, the Marketplace prepared a preliminary eligibility determination stating that you, your husband, [REDACTED] and your [REDACTED] [REDACTED] are eligible for Medicaid. However, in order for eligibility to be finalized, documents must be submitted to confirm that the information provided in your application is accurate. Your [REDACTED] were not given an eligibility determination. The information provided did not match what the Marketplace obtained from State and Federal data sources. In order for their eligibility to be

determined, documents must be submitted to confirm that the information provided in the application is accurate.

On October 16, 2014, the Marketplace issued a disenrollment notice stating that [REDACTED] would be terminated from CDPHP effective October 31, 2014.

On January 20, 2015, you spoke with the Marketplace's Account Review Unit and submitted an appeal request insofar as [REDACTED] were being disenrolled from CDPHP effective October 31, 2014.

On March 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that hearing and closed at the end of the hearing.

## Findings of Fact

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

1. You are applying for health insurance through the Marketplace for: Yourself, your husband and your four children (Testimony).
2. On May 23, 2014, the Marketplace determined: You; your spouse; [REDACTED] are eligible for Medicaid with an effective date of May 1, 2014 (5/23/2014 Marketplace notice).
3. On May 23, 2014, you selected CDPHP as the health plan for: Yourself; your spouse; [REDACTED] with an effective date of July 1, 2014 (7/3/2014 Marketplace notice).
4. On October 15, 2014, you contacted the Marketplace to add [REDACTED] to your Marketplace account (Testimony).
5. On October 16, 2014, you were notified by the Marketplace that [REDACTED]' insurance with New York State of Health was terminated. They were disenrolled from CDPHP effective October 31, 2014 (10/16/2014 Marketplace disenrollment notice).
6. You testified that on October 29, 2014, you contacted the Marketplace and were told by Marketplace representatives that [REDACTED]' disenrollment was a system defect and would be fixed within a week (Testimony).

7. You have \$1,137.84 in outstanding medical bills for [REDACTED] [REDACTED] November 2014. The medical bills have been sent to a collection agency (Testimony; Appellant Exhibit (B)).

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

## **Applicable Law and Regulations**

### Medicaid:

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the federal poverty level (FPL) (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13 ADM-03).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

### Continuous Coverage for children under the age of nineteen:

All Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (NY Social Services Law § 366(4)(b)(3)(i)).

### Medicaid Managed Care (MMC):

The United States Department of Health and Human Services has granted the State of New York a waiver pursuant to Section 1115 of the Social Security Act to permit the operation of a demonstration waiver program for Managed Care Programs in which certain eligible Medicaid recipients are subject to mandatory enrollment.

A "Managed Care Program" is a program in a social services district in which Medicaid recipients enroll on a voluntary or mandatory basis to receive Medicaid Services, including from a managed care provider (N.Y. Soc. Serv. Law § 364-j(1)(c)).

The Partnership Plan Medicaid Section 1115 Demonstration, awarded to the New York State Department of Health by Centers for Medicare and Medicaid Services (CMS), contains Special Terms and Conditions, setting forth the state's obligations to CMS during the term of the demonstration.

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The Partnership Plan provides that certain individuals cannot receive benefits through an MMC. Table 6 sets forth the individuals excluded from MMC.

### Reimbursement for Out-of-Pocket Expenses

Although Medicaid payments are generally made only to providers, 18 NYCRR § 360-7.5(a) provides two exceptions in which direct reimbursement of paid medical bills may be made to eligible Medicaid recipients or their representatives. Under one exception, the regulation provides that Medicaid recipients or their representatives may be reimbursed when, through no fault of their own:

(a) an erroneous Medicaid eligibility determination is reversed (whether the reversal is due to the state or local agency discovering its own error or is the result of a fair hearing decision or court order), or the state or local agency fails to determine Medicaid eligibility within the applicable time periods; and

(b) an erroneous eligibility determination or the delay in determining eligibility caused the recipient or the recipient's representative to pay for medically necessary services which otherwise would have been paid for by the Medicaid program.

18 NYCRR §360-7.5(a)(3)(i).

## **Legal Analysis**

Currently at issue is whether New York State of Health properly disenrolled ██████████ ██████████ from their health insurance with New York State of Health through CDPHP effective October 31, 2014.

Generally, once individuals are determined eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage even if the individual loses Medicaid eligibility because of any changes or updates they make to their Marketplace account. This twelve-month period is based on the start date of the original Medicaid eligibility determination.

On May 23, 2014, the Marketplace determined that ██████████ ██████████ were eligible for Medicaid with an effective date of May 1, 2014. On that same day you selected CDPHP as the health plan from your daughters.

On October 15, 2014, you contacted the Marketplace to add ██████████ to your Marketplace account. On October 16, 2014, you were notified by the Marketplace that ██████████ insurance with New York State of Health was terminated. They were disenrolled from CDPHP effective October 31, 2014.

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You credibly testified that on October 29, 2014, you contacted the Marketplace and were told that your children's disenrollment was a system defect which would be fixed within a week.

Once the Marketplace determined that [REDACTED] were eligible for Medicaid, they should have been eligible for Medicaid for twelve continuous months. Since the October 16, 2014 Marketplace notice discontinued [REDACTED] [REDACTED] with New York State of Health effective October 31, 2014, it must be RESCINDED.

Generally, with regard to enrollment in a Medicaid Managed Care plan (MMC), Medicaid recipients, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC.

Since the July 3, 2014 Marketplace notice correctly stated that [REDACTED] [REDACTED] insurance through Medicaid will begin May 1, 2014, and enrollment with CDPHP will begin July 1, 2014, it is REINSTATED.

Based on the record, you incurred \$1,137.84 in outstanding medical bills for [REDACTED] [REDACTED] from an accident in November 2014. These bills were not paid because her Medicaid coverage was improperly discontinued.

Medical expenses that were the result of the Marketplace's error are eligible for reimbursement. Your case is being referred to the Marketplace's Third Party Resource Unit to process your request.

## **Decision**

The October 16, 2014 Marketplace notice discontinuing your two daughters' health insurance with CDPHP effective October 31, 2014, is RESCINDED.

The July 3, 2014 Marketplace notice is REINSTATED insofar as stating that [REDACTED] [REDACTED] Medicaid will begin May 1, 2014, and enrollment with CDPHP will begin effective July 1, 2014.

**Effective Date of this Decision:** June 16, 2015

## **How this Decision Affects Your Eligibility**

The October 16, 2014 Marketplace notice discontinuing [REDACTED] health insurance with CDPHP effective October 31, 2014, is RESCINDED.

The July 3, 2014 Marketplace notice is REINSTATED insofar as stating that your two daughters' Medicaid will begin May 1, 2014, and enrollment with CDPHP will begin effective July 1, 2014.

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of the gap in coverage in your daughter's Medicaid Managed Care plan. Your case is being referred to the Marketplace's Third Party Resource Unit to process this request.

### **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
- By mail at:  
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## **Summary**

The October 16, 2014 Marketplace notice discontinuing your two daughters' health insurance with CDPHP effective October 31, 2014, is RESCINDED.

The July 3, 2014 Marketplace notice is REINSTATED insofar as stating you're your two daughters' Medicaid will begin May 1, 2014, and enrollment with CDPHP will begin effective July 1, 2014.

You are eligible for reimbursement by Medicaid for any outstanding medical expenses that were incurred as a result of the gap in coverage [REDACTED] Medicaid Managed Care plan. Your case is being referred to the Marketplace's Third Party Resource Unit to process this request.

## **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:**

[REDACTED]  
[REDACTED]  
[REDACTED]