



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

## Notice of Decision

Decision Date: July 15, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001768

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On April 17, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 24, 2014 eligibility determination and February 12, 2015 preliminary eligibility redetermination.

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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[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine your child's Child Health Plus coverage began March 1, 2015?

## Procedural History

The Marketplace received your application for health coverage in 2015 on December 23, 2014, including documents you uploaded to your Marketplace account.

That same day, the Marketplace issued a notice of eligibility redetermination that, in relevant part, said your son is conditionally eligible for Child Health Plus (CHP) effective February 1, 2015. That notice stated that additional information regarding your spouse's income was required to confirm eligibility for members of your household; namely, your son.

Also that same day, the Marketplace issued a letter informing you that the documentation you had submitted to confirm your son's eligibility was insufficient and that additional information regarding your spouse's income was still required to confirm your son's eligibility and/or make an eligibility determination.

On February 4, 2015, you uploaded additional documents to your Marketplace account.

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On February 6, 2015, the Marketplace issued another letter similar to the December 24, 2014 letter requesting additional information.

On February 12, 2015, you updated your Marketplace account and uploaded documents so that your application was complete as of that date.

That same day, the Marketplace prepared a preliminary eligibility redetermination that your son was eligible for CHP effective March 1, 2015.

Also that same day, you spoke with the Marketplace's Account Review Unit and appealed the eligibility redetermination insofar as your son's CHP effective date was March 1, 2015 and you wanted it to be February 1, 2015.

On February 13, 2015, the Marketplace issued a letter confirming your son's enrollment in CHP with Fidelis Care. That letter stated that health insurance coverage will begin after you have paid your first month's premium of \$45.00, and could start as early as March 1, 2015.

On April 17, 2015, you had a telephone hearing with 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 supports the following findings of fact:

- 1) You testified that you and your spouse have one minor child.
- 2) You testified that you are appealing only the eligibility determinations made for your child.
- 3) You testified and the record reflects that the December 24, 2014 notice of your son's conditional eligibility for Child Health Plus (CHP) was after the December 20, 2014 extended deadline, so you understood you could not enroll your child in CHP for January 2015.
- 4) You testified that, in December 2014, you enlisted the assistance of a broker, you updated your application, and the broker assured you that your son's CHP coverage would take effect February 1, 2015.
- 5) You testified that you contacted the broker on February 11, 2015 and left a message because you had not gotten a bill from Fidelis Care for the February 2015 CHP premium yet.

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- 6) You further testified that the broker returned your call on February 12, 2015, and informed you for the first time that your son's CHP coverage had not gone through for February 2015.
- 7) You testified that the broker informed you that all the documents he could access said coverage went through for February 2015, but that he had not received an "834 file" from the Marketplace and still had not received such file for an effective date of March 1, 2015.
- 8) You testified that you contacted the Marketplace on February 12, 2015 as well, and were told there is a difference between eligibility and enrolment dates, and the Marketplace could not override the start date of March 1, 2015 that the system had generated.
- 9) You believe that because the broker and the Marketplace did not communicate, you are being penalized and your son has had to go without insurance.

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)).

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 *et seq.* and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

"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)).

In New York State, CHP benefits are furnished “By the first day of the month after the application is received if prior to the 15<sup>th</sup> of the month or the first day after the subsequent month if after the 15<sup>th</sup> of the month” (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

## **Legal Analysis**

The matter under review is when your son’s Child Health Plus (CHP) coverage should have taken effect.

The date on which a CHP plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

After you submitted your health insurance application on December 23, 2014 and uploaded documents on two occasions, the Marketplace advised you on December 24, 2014 and again on February 6, 2015, that it could not make a determination as to your son’s eligibility until you provided additional information.

Although you contend that the delay in your son’s effective date of coverage was due to broker error, the record reflects that your application was not yet complete as of February 6, 2015, so an eligibility determination could not be confirmed and enrollment could not be achieved.

The record reflects that you provided additional information on February 12, 2015 and this made your application complete as of that date. Since the application could not be processed until after your application was complete, which was after the February 1, 2015 start date as had been initially determined, coverage properly began on March 1, 2015.

## **Decision**

The December 24, 2014 eligibility determination, as redetermined on February 12, 2015, is AFFIRMED.

**Effective Date of this Decision:** July 15, 2015

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

Your son's Child Health Plus coverage began on March 1, 2015 and continues 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 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):**

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## **Summary**

The December 24, 2014 eligibility determination, as redetermined on February 12, 2015, is AFFIRMED.

Your son's Child Health Plus coverage began on March 1, 2015 and continues in effect.

## **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]