



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

## Notice of Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002293

[REDACTED]

Dear [REDACTED],

On May 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 5, 2015 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 notice.

## Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(b).

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: October 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002293

[REDACTED]

## Issue

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

Did the Marketplace properly terminate your children's health coverage under Child Health Plus as of April 30, 2015?

## Procedural History

On December 23, 2013, the Marketplace received your completed initial application for health insurance.

Also on December 23, 2013, the Marketplace prepared a preliminary eligibility determination stating that you were eligible to receive enroll in a qualified health plan (QHP) beginning January 1, 2014, and that each of your children, [REDACTED] were eligible to enroll in a Child Health Plus (CHP) plan at a reduced monthly premium rate of \$30.00 per child. Your children's eligibility for such coverage also began on January 1, 2014. No written determination was issued by the Marketplace formalizing the findings prepared under the December 28, 2013 preliminary eligibility determination.

On December 27, 2013, the Marketplace issue a notice confirming enrollment in a bronze-level QHP and a stand-alone dental plan at a total premium rate of \$343.89 for you, [REDACTED].

Your enrollment details reflect that on December 24, 2013 each of your children were enrolled in a CHP plan, with coverage slated to begin on January 1, 2014. However, no notice was issued by the Marketplace confirming their enrollment.

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On May 16, 2014, the Marketplace received a revised application in which you indicated slight increase in income to \$54,750.00.

Also on May 16, 2014, the Marketplace again prepared a preliminary eligibility determination stating that you were eligible to receive enroll in a QHP, and that each of your children, [REDACTED], were eligible to enroll in a CHP plan at a reduced monthly premium rate of \$30.00 per child. In each case, you and your children were eligible to begin such plans on July 1, 2014. No written determination was issued by the Marketplace formalizing the findings prepared under the May 16, 2014 preliminary eligibility determination with respect to your children.

On May 18, 2014, the Marketplace issued an eligibility redetermination notice stating that you continued to be eligible to enroll in a QHP at full cost.

Your enrollment details reflect that on November 12, 2014 your stand-alone dental plan coverage had been terminated effective December 31, 2014; your children's enrollment under their CHP plan had remained unchanged.

On November 13, 2014, the Marketplace issued a disenrollment notice confirming that your coverage under the stand-alone dental plan would be terminated effective December 31, 2014.

On December 10, 2014, the Marketplace issued a notice confirming your selection of your children's CHP plan as of November 12, 2014, with a total premium responsibility of \$60.00. The notice stated that your children's coverage could begin as early as January 1, 2014 if the first month's premium was received. It also stated that you must pay the monthly premium for this coverage before your children's coverage could begin. If you did not pay your premium, you children might not have health coverage.

On April 4, 2015, the Marketplace received a revised application in which attested to an expected yearly income of \$54,750.00, and that you were seeking insurance solely for your children since you were able to enroll in an employer-sponsored health plan.

Also on April 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed your children's CHP coverage start date insofar as you were seeking to have their coverage begin no later than November 1, 2014, based on the December 10, 2014 notice confirming their enrollment.

On April 5, 2015, the Marketplace issued an eligibility redetermination notice stating that your children were eligible to enroll in a CHP plan at a reduced monthly premium rate of \$30.00 per child. The eligibility determination was effective May 1, 2015.

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On that same date, the Marketplace issued a disenrollment notice confirming that your children's coverage under their CHP plan would end effective on April 30, 2015.

Also on April 5, 2015, the Marketplace issued a notice confirming your selection of your children's CHP plan as of April 4, 2015, with a total premium responsibility of \$60.00. The notice stated that your children's coverage could begin as early as May 1, 2015 if the first month's premium was received. It also stated that you must pay the monthly premium for this coverage before your children's coverage could begin. If you did not pay your premium, your children might not have health coverage.

On May 20, 2015, 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 supports the following findings of fact:

- 1) The Marketplace's enrollment details reflect that you enrolled your children in a Child Health Plus (CHP) plan on December 23, 2013, with such coverage to begin on January 1, 2014.
- 2) Your enrollment details reflect that on November 12, 2014 your coverage under your stand-alone dental plan had been terminated, your children's enrollment under their CHP plan continued without interruption from January 1, 2014.
- 3) On December 10, 2014, the Marketplace issued a notice reconfirming your selection of a CHP plan for your children's coverage as of November 12, 2014. It stated that your children's coverage could begin as early as January 1, 2014 if the first month's premium was received.
- 4) You testified that you received a notice indicating that your children's CHP coverage would terminate on October 31, 2015; however, the record does not contain a notice from the Marketplace reflecting such a termination date.
- 5) You testified that while you were issued a transaction code for your health plan selection in November when you selected your children's CHP plan, you never received a bill from the insurance carrier. You further testified that when you contacted the insurance carrier in late November or early

- December they did not have a record of your selection of a CHP plan for your children.
- 6) The Marketplace issued a disenrollment notice stating that you requested to end your children's CHP plan coverage on April 4, 2015. The Marketplace confirmed that your children's coverage would terminate April 30, 2015.
  - 7) You testified, and the record reflects, that you submitted a revised application for your children on April 4, 2015. You selected the same CHP plan for your children's health insurance on that same date.
  - 8) The Marketplace's enrollment details, as reflected in your April 4, 2015 application, indicate that your children's CHP coverage continued uninterrupted from January 1, 2014 until April 30, 2015.
  - 9) The Marketplace confirmed your selection of your children's CHP plan on April 5, 2015. The start date of your children's coverage was determined to be May 1, 2015.
  - 10) You testified that you were forced to pay several medical bills out-of-pocket between January and March of 2015, as a result of your children not having health insurance during those months.
  - 11) You testified that you were seeking a reinstatement of your children's CHP plan back to at least November 1, 2014.

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 may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the federal poverty level (FPL) and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

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

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documentation and ending on the last day of the 12th 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)).

### Termination of Coverage

The Marketplace may initiate termination of an enrollee’s coverage in a qualified health plan (QHP) and must permit a QHP issuer to terminate such coverage: (1) When the enrollee is no longer eligible for coverage in a QHP through the Marketplace; or (2) The enrollee’s coverage is cancelled due to non-payment of premiums (45 CFR § 155.430(b)(2)(i) and (ii)).

## **Legal Analysis**

The only issue raised on appeal is whether the Marketplace properly terminated your children’s Child Health Plus (CHP) effective April 30, 2015.

On November 28, 2013, the Marketplace prepared a preliminary eligibility determination for an application submitted for your children on November 28, 2013. It stated that, effective January 1, 2014, each of your children 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 children’s CHP eligibility began on January 1, 2014, it properly should have continued until December 31, 2014, unless an event occurred to disqualify them from CHP eligibility. The record does not indicate that any CHP premiums were not timely paid, that your children gained access to or obtained other health insurance, or that your children became eligible for Medicaid. The record does confirm that they still reside in New York State.

The record reflects that on November 12, 2014, you took steps to reconfirm your children’s CHP plan coverage; however, you testified that you never received a bill from the insurance carrier and, after inquiring about your children’s coverage, they indicated that your children were not enrolled in their health coverage.

However, the credible evidence of record does not include any notice regarding their enrollment other than the December 10, 2014 notice confirming your children’s enrollment in the CHP plan as of November 12, 2014. Furthermore, no disenrollment was issued by the Marketplace until April 5, 2015, which coincided with your April 4, 2015 application in which you, again, reenrolled your children in the CHP plan coverage, effective May 1, 2015.

Since the record does not support that you requested to disenroll your children from their CHP plan coverage on April 4, 2015, the April 5, 2015 notice of disenrollment is RESCINDED.

Also, since there is nothing in the record to indicate that your children should not have had their coverage continue between November 1, 2014 and April 30, 2015, your case is RETURNED to the Marketplace to reinstate your children's CHP coverage during those months pending the receipt of the necessary premium payments.

## **Decision**

The April 5, 2015 notice of disenrollment is RESCINDED.

Your case is RETURNED to the Marketplace to reinstate your children's Child Health Plus coverage November 1, 2014 and April 30, 2015 pending the receipt of the necessary premium payments.

**Effective Date of this Decision:** October 10, 2015

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

Your children's Child Health Plus coverage, which began on January 1, 2014, 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)).

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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 April 5, 2015 notice of disenrollment is **RESCINDED**.

Your case is **RETURNED** to the Marketplace to reinstate your children's Child Health Plus (CHP) coverage November 1, 2014 and April 30, 2015 pending the receipt of the necessary premium payments.

Your children's CHP coverage, which began on January 1, 2014, continues in effect.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

