



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

**Notice of Decision**

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002311

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On May 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 22, 2014, December 27, 2014, and January 1, 2015 eligibility determinations.

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).

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

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Appeal Identification Number: AP000000002311

[REDACTED]  
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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 son's coverage under Medicaid would end effective December 31, 2014?

Did the Marketplace properly determine that your son's coverage under his new qualified health plan would be effective no earlier than February 1, 2015?

## Procedural History

On January 10, 2014, an application was made on your family's behalf to get health insurance through the Marketplace. This application was filled out by an application counselor with Fidelis Care NY – NYS Catholic Health Plan, Inc. (Fidelis), the health insurance plan into which your family was subsequently enrolled.

On February 18, 2014, the Marketplace issued a notice of eligibility determination that stated your son was eligible for Medicaid, and a second notice that stated he had been enrolled in a Medicaid managed care plan through Fidelis.

On November 5, 2014, the Marketplace issued a notice of renewal that stated your son could not be enrolled in his current health plan for 2015 because he was newly qualified for Child Health Plus, with a premium of \$9.00 per month, based on your family income. You were advised that if you felt this was a

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mistake, you would have to make any necessary changes to your account by December 15, 2014 for your coverage to be in effect by January 1, 2015.

On November 14, 2014, the Marketplace issued another notice of renewal. This time it stated that the Marketplace was unable to make a determination as to your son's eligibility for financial assistance, and you were advised that you would have to make any necessary changes to your account by December 15, 2014 for your coverage to be in effect by January 1, 2015.

Your account was not updated by December 15, 2014.

On December 22, 2014, the Marketplace issued a notice stating that your son was not eligible for financial assistance, nor was he eligible to enroll in health insurance through the Marketplace even at full cost, because you had not responded to the renewal notice. However, the notice stated that your son's Medicaid coverage would continue until your Local Department of Social Services made a determination as to his eligibility for Medicaid on a different basis.

On December 27, 2014, the Marketplace issued a disenrollment notice, stating that your son would be disenrolled from his Medicaid managed care plan effective December 31, 2014, because he was no longer eligible to enroll in health insurance through the Marketplace.

On December 31, 2014, your account was modified.

On January 1, 2015, the Marketplace issued a notice of eligibility determination, stating that your son was eligible to enroll in health insurance through the Marketplace with Child Health Plus, with a \$9.00 per month premium, effective February 1, 2015. He was then enrolled in a Child Health Plus plan through Fidelis.

On April 7, 2015, you spoke with the Marketplace's Account Review Unit and requested an appeal regarding the gap in coverage caused by the cancellation of your son's coverage effective December 31, 2014 and the reenrollment in a new plan effective date of February 1, 2015.

On May 19, 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) You testified that you initially applied for insurance through the Marketplace, when an application counselor from Fidelis came to your home to take the application.
- 2) You further testified that the application counselor entered your family's information into your on-line account, and that, unknown to you, she entered the wrong house address for your family.
- 3) You testified that you were not aware that you needed to take any action on your son's behalf until after the relevant deadlines; as soon as you became aware there was a problem, you took action to correct it.
- 4) The information in your account history confirms that when the application was made on January 10, 2014, the wrong address was entered for your "Residence Address" and "ID Proofed Address." It appears that the correct address was entered into the system for your "Mailing Address."
- 5) All notices from the Marketplace were sent to the wrong address until the January 1, 2015 notices were sent, when the error in your personal information was corrected.
- 6) You testified that you never received any notices advising you that you would need to take action regarding your son's health insurance.
- 7) You testified that you want your son to have coverage for the month of January 2015, whether under Medicaid as previously approved, or under Child Health Plus.

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

## Applicable Law and Regulations

Generally, the Marketplace must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year (45 CFR § 155.335, 45 CFR §155.410(d)). The Marketplace must then issue an annual redetermination notice, which specifies the individual's projected eligibility determination regarding financial assistance, such as tax credits, cost-sharing reductions, Medicaid, or Child Health Plus (45 CFR § 155.335(c)(3)).

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The Marketplace must generally require a qualified individual to report any change with respect to eligibility standards within 30 days of such change (45 CFR § 155.35(e)). If an individual fails to timely respond, the Marketplace must redetermine that individual's eligibility using the information provided in the annual renewal notice (42 CFR § 155.335 (h)(1)).

## **Legal Analysis**

The first issue is whether the Marketplace properly determined that your son's coverage under Medicaid would end effective December 31, 2014.

Federal regulations require the Marketplace to annually confirm that people who are enrolled in health insurance plans with financial assistance are still eligible to for such financial assistance. The Marketplace must issue an annual redetermination for renewal, and if the individual fails to respond, eligibility for the upcoming year must be redetermined according to the renewal notice.

In the present case, no notice was sent to you at your correct address, through no fault of your own, and you did not receive the notices. Since you were not given the opportunity to respond to the annual eligibility determination, it was not proper for the Marketplace to terminate your coverage. Had you been advised to update your account, as required by federal regulation, your son would have been eligible for coverage effective January 1, 2015.

Therefore, it is determined that your son's eligibility should have been effective January 1, 2015.

## **Decision**

The December 22, 2014 and December 27, 2014 eligibility determinations are **RESCINDED** and the January 1, 2015 eligibility determination is **MODIFIED** to reflect that your son's effective eligibility date is determined to be January 1, 2015.

**Effective Date of this Decision:** June 30, 2015

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

Your son remains eligible for enrollment through Child Health Plus, effective January 1, 2015.

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## **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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary:**

The December 22, 2014 and December 27, 2014 eligibility determinations are **RESCINDED** and the January 1, 2015 eligibility determination is **MODIFIED** to reflect that your son's effective eligibility date is determined to be January 1, 2015.

Your son remains eligible for enrollment through Child Health Plus, effective January 1, 2015.

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## **Legal Authority**

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

[REDACTED]  
[REDACTED]  
[REDACTED]