



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

## Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002770

[REDACTED]

Dear [REDACTED],

On September 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 6, 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 Code of Federal Regulation (CFR) 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).

This page intentionally left blank.



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

## Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002770

[REDACTED]

## Issue

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

Can the Appeals Unit consider your appeal regarding the cancellation of enrollment for [REDACTED] from their Child Health Plus coverage effective April 30, 2015 because of non-payment of premiums?

## Procedural History

The Marketplace received your initial application for health insurance on February 21, 2014, in which you attested to an expected yearly income of \$71,220.00.

On February 22, 2014, the Marketplace issued an eligibility determination notice stating that [REDACTED] were found eligible to enroll in Child Health Plus (CHP) for a total premium of \$90.00 per month. The notice further stated that you selected Capital District Physicians' Health Plan, Inc. (CDPHP) for coverage of your children. The notice finally stated that the coverage would begin shortly after the first premium payment has been received by the health plan.

Your Marketplace account enrollment details reflect that as of February 22, 2014, the coverage start date for your children under the CDPHP CHP plan was April 1, 2014.

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).

On February 13, 2015, the Marketplace issued a notice stating that it was time to renew your NY State of Health Coverage, and that based on information about you from state and federal data sources obtained as of January 30, 2015, your three children were found eligible to enroll in CHP at full cost, effective April 1, 2015. The notice further stated that your children were reenrolled in their current health plan, CDPHP, for another year at a total premium of \$225.98 per month.

On February 18, 2015, the Marketplace issued an enrollment notice confirming your children's enrollment in CHP under the CDPHP plan at a premium rate of \$677.94. The notice further stated that your children's coverage could begin as early as April 1, 2014 provided your first month's premium was received. The notice cautioned that you must pay the monthly premium for this coverage to begin. If you do not pay your premium, you may not have health coverage.

On May 6, 2015, the Marketplace issued a disenrollment notice confirming that your children had been disenrolled from their coverage with CDPHP effective April 30, 2015 for non-payment of premiums amounts. The notice further stated that if you believed you timely made your premium payment to please contact your plan directly at 1-800-388-2994.

Also on May 6, 2015, the Marketplace received a revised application in which you attested to a revised income of \$73,000.00. In response to the May 6, 2015 application, the Marketplace issued a preliminary eligibility determination on May 6, 2015 that found that your three children were eligible to enroll in CHP at a monthly premium amount of \$45.00 per child, effective June 1, 2015; however, this determination was apparently issued based on an annual household income of \$94,000.00, rather than \$73,000.00

On that same date, you spoke with the Marketplace's Account Review Unit and appealed the May 6, 2015 disenrollment notice insofar as your children were disenrolled from their CHP coverage effective April 30, 2015.

On May 7, 2015, the Marketplace issued an eligibility redetermination notice formalizing the findings prepared under the May 6, 2015 preliminary eligibility determination notice. The notice stated that your three children were eligible to enroll in CHP at a monthly premium amount of \$45.00 per child, effective June 1, 2015.

On July 6, 2015, the Marketplace received a facsimile from [REDACTED] which included: (1) a letter confirming that you had retained [REDACTED] as counsel in connection with this appeal, and (2) a letter issued by CDPHP, dated May 7, 2015, reflecting a summary of payments received by CDPHP for each your children's between March 24, 2014 and May 5, 2015.

On September 11, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you and your counsel an opportunity to submit as additional evidence: electronic invoice documentation issued by CDPHP as well as other supporting documentation. The record was to be closed 21 days after the hearing date, which was October 2, 2015, or upon the receipt of the above-referenced documents, whichever occurred earlier.

On September 29, 2015, the Appeals Unit received a letter from your counsel via facsimile requesting to extend that record remain open until October 9, 2015 to submit additional documentation. That same day, your request was granted.

On October 9, 2015, the Appeals Unit received several documents from your counsel, including: (1) a letter outlining your position on why your son, [REDACTED], should not have been disenrolled from his coverage effective April 30, 2015, (2) a letter issued by CDPHP, dated May 7, 2015, reflecting all premium payments received between March 24, 2014 and May 5, 2015 for [REDACTED] insurance coverage, (3) a letter issue by CDPHP, dated May 5, 2015, confirming disenrollment of CHP coverage of [REDACTED] effective April 30, 2015, (4) a screenshot of CDPHP's invoice listing portal for [REDACTED] (5) a screenshot of CDPHP's payment records, (6) a screenshot of CDPHP's payment history, and (7) a screenshot of an invoice dated January 23, 2015 for the period between April 1, 2015 and April 30, 2015 reflecting a total amount due of \$60.00, and (8) a screenshot of an invoice dated May 8, 2015 for the period between April 1, 2015 and April 30, 2015 reflecting a total credit amount \$90.00. As a result, the record was closed on October 9, 2015.

## Findings of Fact

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

- 1) Your children, [REDACTED], were enrolled in a CDPHP CHP plan effective April 1, 2015.
- 2) You testified that beginning April 1, 2014, you made timely premium payments of \$30.00 per month to CDPHP.
- 3) You testified that CDPHP, without your knowledge or any notices having been issued to you, increased the premium amount due for each child from \$30.00 to \$225.98, beginning April 1, 2015.
- 4) You testified that CDPHP apparently accepted \$30.00 payments on April 6, 2015 and May 5, 2015 as "partial payments" toward your children's April

2015 coverage, but ultimately disenrolled your children's coverage effective April 30, 2015, as reflected in a letter issued on May 5, 2015.

- 5) You submitted a new application to the Marketplace on May 7, 2015. Based on that application, your children were found eligible to enroll in a CHP plan at a premium rate of \$45.00 per month. You reenrolled your children in the CDPHP plan, but they were found eligible to begin their coverage no earlier than June 1, 2015.
- 6) You testified that in early May 2015 your son, [REDACTED] suffered severe injuries resulting from an accident. You further testified that you incurred significant medical expenses during this time since CDPHP disenrolled your son from CHP coverage effective April 30, 2015.
- 7) You testified that you were seeking a reinstatement of your children's insurance during May 2015.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

## **Legal Analysis**

The issue under review is whether the Appeals Unit can consider your appeal regarding the cancellation of enrollment for [REDACTED] from their Child Health Plus (CHP) coverage effective April 30, 2015 because of non-payment of premiums.

On May 6, 2015, the Marketplace issued a disenrollment notice stating that your children's coverage in their CDPHP CHP plan was terminated effective April 30, 2015 because of non-payment of premiums.

You testified that beginning April 1, 2014, you made timely premium payments of \$30.00 per month to CDPHP. You testified that CDPHP, without your knowledge or any notice having been issued to you, increased the premium amount for each child from \$30.00 to \$225.98 beginning April 1, 2015. You provided documentation to the Marketplace that CDPHP disenrolled your son, [REDACTED] from his CHP coverage for non-payment of premiums.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the New York State of Health Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your children were properly terminated from their CHP health plan for non-payment of premiums. Therefore, your appeal of the May 6, 2015 disenrollment notice is DISMISSED as a non-appealable issue.

It is further noted that the renewal notice that was sent to you by the Marketplace on February 13, 2015 and the notice sent to you by the Marketplace on February 18, 2015 stated that your children were eligible for coverage under CHP at full cost.

## **Decision**

Your appeal of the May 6, 2015 disenrollment notice is DISMISSED as a non-appealable issue.

**Effective Date of this Decision:** November 25, 2015

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

Your children's eligibility has not changed. Their Child Health Plus coverage under CDPHP terminated effective April 30, 2015.

## **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**

Your appeal of the May 6, 2015 disenrollment notice is **DISMISSED** as a non-appealable issue.

Your children's eligibility has not changed. Their Child Health Plus coverage under CDPHP terminated effective April 30, 2015.

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).



## **Legal Authority**

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

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).

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

[REDACTED]

[REDACTED]