



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

## Notice of Decision

Decision Date: October 19, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002877 (inactive) - APM00000000016

[REDACTED]

Dear [REDACTED],

On July 16, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's decision to start your eldest child's Child Health Plus on June 1, 2015, instead of May 1, 2015.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002877 (inactive) - APM00000000016



## Issue

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

Did the Marketplace properly start your eldest child's coverage through Child Health Plus on June 1, 2015, instead of May 1, 2015?

## Procedural History

On April 27, 2015 you applied for health insurance for your eldest child through the Marketplace.

On the same day you uploaded additional documents to your Marketplace Account.

On April 28, 2015 the Marketplace issued an eligibility determination notice that your eldest child is eligible to purchase a qualified health plan at full cost through New York State of Health effective June 1, 2015. The notice states that they are not eligible for Child Health Plus because they "are qualified for coverage on another NY State of Health account."

On May 1, 2015 you reapplied for health insurance for your eldest child through the Marketplace. On the following day the Marketplace issued an eligibility determination notice that your eldest child is eligible to purchase a qualified health plan at full cost through New York State of Health effective June 1, 2015. The notice states that they are not eligible for Child Health Plus because they "are qualified for coverage on another NY State of Health account."

On May 7, 2015 the Marketplace redetermined your eldest child's eligibility through the Marketplace. On the following day the Marketplace issued an eligibility determination notice stating that your eldest child is eligible to enroll

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through Child Health Plus with a \$9.00 premium per month effective June 1, 2015.

On May 8, 2015 the Marketplace issued an enrollment confirmation notice that your eldest child's coverage through Child Health Plus could start as early as March 1, 2015.

On May 12, 2015 you spoke to the Marketplace Appeals Unit and requested an appeal insofar as the start date of your eldest child's coverage through Child Health Plus.

On July 16, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing. The record was left open until July 16, 2015 to allow you to submit additional documentation.

On July 16, 2015 you faxed eleven-pages to the Marketplace Appeals Unit. The fax was collectively marked as "Appellant Exhibit A" and has been made part of the record. The record is now complete and closed.

## **Findings of Fact**

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

1. You testified that you are appealing your eleven-year-old daughter's (eldest child) Child Health Plus start date.
2. You testified that you want your eldest child's Child Health Plus plan to have a start date of May 1, 2015.
3. According to your Marketplace account, your eldest child's Child Health Plus plan had a start date of June 1, 2015.
4. You testified that you became aware in March 2015 that your eldest child's father enrolled her in a health plan through his Marketplace Account.
5. You applied for your eldest child on April 27, 2015. The Marketplace determined your eldest child eligible to purchase a qualified health plan at full cost through New York State of Health. Your eldest child was determined not eligible for Child Health Plus because they "are qualified for coverage on another NY State of Health account."
6. On April 27, 2015 you uploaded your Modified Custody/Visitation Order on Consent (Index No.: [REDACTED]) from the Supreme Court of the State of New York, County of Dutchess.

7. The Modified Custody/Visitation Order states “that the parents shall have joint custody...with the Mother retaining primary physical custody of the Child.”
8. You testified that the Modified Custody/Visitation Order you uploaded is currently in effect.
9. On May 8, 2015 the Marketplace issued an eligibility determination notice stating that your eldest child is eligible to enroll through Child Health Plus with a \$9.00 premium per month effective June 1, 2015.
10. On May 8, 2015 the Marketplace issued an enrollment confirmation notice that confirmed that you enrolled your eldest child in a Child Health Plus plan on May 7, 2015.
11. You testified that your eldest child was fraudulently added to their father’s Marketplace account.
12. You testified that your eldest child has resided with you since birth.
13. On July 16, 2015 you faxed outstanding medical bills for your eldest child from May 2015 (Appellant Exhibit A p. 8-11).

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 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, Child Health Plus benefits are furnished “By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th 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 issue is whether the Marketplace properly determined that your eldest child's enrollment in her Child Health Plus plan was effective June 1, 2015.

The record indicates that you submitted your eldest child's application for health insurance on April 27, 2015. On the same day you uploaded a Modified Custody/Visitation Order on Consent regarding your eldest child.

Based on this documentation, the Marketplace issued an eligibility determination notice on May 8, 2015 stating that your eldest child is eligible to enroll through Child Health Plus with a \$9.00 premium per month effective June 1, 2015. On the same day the Marketplace issued an enrollment confirmation notice that confirmed that you enrolled your eldest child in a Fidelis Care health plan on May 7, 2015.

In New York State, consistent with federal regulation, if an application for enrollment in Child Health Plus insurance coverage is received before the 15<sup>th</sup> of the month, benefits are provided on the first day of the next month. However, if the application for enrollment is received after the 15<sup>th</sup> of the month, benefits are provided on the first day of the subsequent month.

On May 8, 2015, the Marketplace issued an eligibility determination notice stating that your eldest child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective June 1, 2015.

On May 8, 2015, the Marketplace issued a notice confirming your eldest child's Child Health Plus plan selection. The notice confirmed the enrollment was of May 7, 2015 and that the total monthly premium was \$9.00.

Since your eldest child's enrollment was confirmed as of May 7, 2015, her Child Health Plus plan properly took effect on June 1, 2015.

Therefore, the May 8, 2015 enrollment confirmation notice is MODIFIED to state that your eldest child's Child Health Plus plan will begin after you have paid your first month's premium. If you pay your first month's premium, your coverage could start as early as June 1, 2015.

## **Decision**

The May 8, 2015 enrollment confirmation notice is MODIFIED to state that your eldest child's Child Health Plus plan will begin after you have paid your first month's premium. If you pay your first month's premium, your coverage could start as early as June 1, 2015.

**Effective Date of this Decision:** October 19, 2015

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## **How this Decision Affects Eligibility**

Your daughter's enrollment is not affected by this decision.

Your daughter remains eligible for Child Health Plus with a \$9.00 monthly premium.

Your daughter remains enrolled in Fidelis Care with a start date of June 1, 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):**

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## **Summary**

The May 8, 2015 enrollment confirmation notice is MODIFIED to state that your eldest's Child Health Plus plan will begin after you have paid your first month's premium. If you pay your first month's premium, your coverage could start as early as June 1, 2015.

Your daughter's enrollment is not affected by this decision.

Your daughter remains eligible for Child Health Plus with a \$9.00 monthly premium.

Your daughter remains enrolled in Fidelis Care with a start date of June 1, 2015.

## **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:**

