

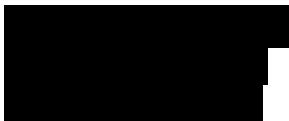


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003529



Dear [REDACTED],

On September 14, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 26, 2014 disenrollment notice, and May 30, 2015 and June 2, 2015 enrollment confirmation notices.

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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## Decision

Decision Date: December 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003529

[REDACTED]

[REDACTED]

### Issue

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

Was the December 26, 2014 disenrollment notice subject to appeal as of June 16, 2015?

Did the Marketplace properly determine that enrollment in the CDPHP Medicaid Managed Care plan for you, your spouse, and your two children should be effective July 1, 2015?

### Procedural History

On March 5, 2014, the Marketplace issued eligibility determination notices confirming that you and your spouse were eligible for Medicaid, and that your two children, [REDACTED], were conditionally eligible for Medicaid. You were requested to provide "TPL Information" for your children by March 22, 2014 in order to confirm their eligibility. The notice also confirmed your family's enrollment in a CDPHP Medicaid Managed Care (MMC) plan. Finally, the notice stated that your family's insurance through Medicaid would begin March 1, 2014, coverage for you and your spouse under CDPHP would begin April 1, 2014, and coverage for your children under CDPHP would begin January 1, 2014.

On December 19, 2014, the Marketplace issued a notice stating that your December 18, 2014 application, in which you attested to an expected yearly income of \$27,656.00, had been reviewed. It stated that your family might be eligible for health insurance through the NY State of Health, but that more information was required to make a determination. It requested that you provide

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income documentation by January 5, 2015 in order to confirm the information you provided in your application is accurate, or you might be found ineligible for health insurance or eligible for less financial assistance.

On December 26, 2014, the Marketplace issued a disenrollment notice confirming that your family's coverage under the CDPHP MMC plan would end effective December 31, 2014.

On January 1, 2015 and January 13, 2015, the Marketplace received several facsimiles reflecting your household income during December 2014.

On January 6, 2015, the Marketplace issued a notice acknowledging that you submitted documentation to resolve an inconsistency; however, the documentation was insufficient to resolve the request. The notice requested that you provide additional documentation proving your level of income. It did not specify the deadline by which such documents were required to be received.

Between January 23, 2015 and February 5, 2015, the Marketplace received several documents, including your earning statements issued to you by your employer, reflecting your household income during December 2014.

On February 10, 2015, the Marketplace issued a notice acknowledging that you submitted documentation to resolve an inconsistency; however, the documentation was again insufficient to resolve the request. The notice requested that you provide additional documentation proving your level of income. It did not specify the deadline by which such documents were required to be received.

On February 27, 2015, the Marketplace received a revised application in which you attested to an expected yearly income of \$27,656.00.

On February 28, 2015, an eligibility determination notice was issued stating that you, your spouse and your two children were eligible for Medicaid because your household income of \$27,656.00 was at or below the income limit for that program. This eligibility was effective as of February 1, 2015. The notice also advised you to choose a health plan, or one would be chosen for you.

On March 1, 2015, the Marketplace issued an enrollment confirmation notice that stated that your family's insurance coverage through Medicaid would begin February 1, 2015, but that you must choose a health plan soon or one will be chosen for you.

On May 26, 2015, the Marketplace received a revised application in which you attested to a household income of \$22,070.00.

On May 27, 2015, the Marketplace issued an eligibility redetermination notice stating that while your family members were no longer eligible for Medicaid, your family's Medicaid coverage would continue until January 31, 2016. The notice also requested that you provide income documentation to confirm your eligibility before June 10, 2015. This eligibility determination was effective May 1, 2015.

On May 30, 2015, the Marketplace issued an enrollment confirmation notice confirming your family's enrollment in a CDPHP MMC plan as of May 29, 2015. It further stated that your family's enrollment with CDPHP is effective July 1, 2015.

On June 2, 2015, the Marketplace issued an additional enrollment notice confirming your family's enrollment in the CDPHP MMC plan as of June 2, 2015. It further stated that your family had been auto-enrolled in this MMC effective July 1, 2015.

On June 17, 2015, you spoke to the Marketplace's Account Review Unit and appealed the May 30, 2015 and June 2, 2015 enrollment confirmation notices insofar as it began your coverage under the CDPHP MMC plan on July 1, 2015.

Your enrollment details reflect that on August 26, 2015, the Marketplace approved your family for fee-for-service Medicaid coverage for the period from January 1, 2015 to January 31, 2015. No written determination notice was issued by the Marketplace regarding this finding.

On September 14, 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**

- 1) On February 28, 2015, your family was found eligible for Medicaid based on the information contained in your Marketplace application. Your family was found eligible for fee-for-service Medicaid beginning February 1, 2015.
- 2) The Marketplace also found your family eligible for fee-for-service Medicaid coverage from January 1, 2015 to January 31, 2015.
- 3) You testified that you elected to receive all notifications from the Marketplace electronically.
- 4) You testified the e-mail address you provided in your account was accurate.

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- 5) The record reflects that you selected the CDPHP Medicaid Managed Care (MMC) plan on May 29, 2015. The Marketplace provided a July 1, 2015 start date of coverage under this MMC plan.
- 6) You testified that you didn't recall any of the Marketplace representative stating that you had to select an MMC for your family's coverage.
- 7) You testified that your ability to select an MMC might have been hampered by the fact that you had two accounts through the Marketplace.
- 8) On May 30, 2015 and June 2, 2015, the Marketplace issued a notice advising you that your Medicaid coverage began on February 1, 2015 and that the CDPHP MMC plan would take effect on July 1, 2015.
- 9) You testified that you want your family's CDPHP MMC plan to begin no later than January 1, 2015.
- 10) You testified that you were seeking coverage under your MMC to pay for bills relating to mental health services you received between January and May 2015.

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

## **Applicable Law and Regulations**

### Appeal Timeliness

The Marketplace "appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) a timeframe consistent with the state Medicaid agency's requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination" (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

### Medicaid

Medicaid through the Marketplace can be provided to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a

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household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

## Legal Analysis

On June 17, 2015, you spoke with the Marketplace's Account Review Unit and appealed the December 26, 2014 eligibility determination.

Eligibility determinations, including disenrollment notices, may be appealed within 60 days of issue. The Marketplace issued a disenrollment notice on December 26, 2014 stating that your family's coverage under the CDPHP Medicaid Managed Care (MMC) plan would end effective December 31, 2014. Since the December 26, 2014 disenrollment notice was issued more than 60 days before your June 16, 2015 appeal, the appeal is untimely with respect to that notification and is dismissed.

The December 26, 2014 disenrollment notice continues in effect.

The next issue is whether the Marketplace properly determined that your family's enrollment in your CDPHP MMC plan was effective July 1, 2015.

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

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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.

The record reflects that on May 29, 2015, you selected the CDPHP MMC plan, so it must take effect on the first day of the second month after May 2015; that is, on July 1, 2015.

Therefore, the May 30, 2015 and June 2, 2015 enrollment confirmation notices stating that your family's coverage under the CDPHP MMC plan would take effect on July 1, 2015 is correct and must be AFFIRMED.

We note that there have been several eligibility determinations issued after June 2, 2015, which found least one of your family members conditionally eligible for Medicaid pending the receipt of income documentation. Since your family was found fully eligible for Medicaid as of February 1, 2015, all eligibility determinations issued subsequent to June 2, 2015 are MODIFIED to reflect that your family is eligible for Medicaid coverage, without condition, until January 31, 2016.

## **Decision**

The June 16, 2015 appeal of the December 26, 2014 disenrollment notice is untimely and is dismissed.

The May 30, 2015 and June 2, 2015 enrollment confirmation notices are AFFIRMED.

We note that there have been several eligibility determinations issued after June 2, 2015 that found least one of your family members conditionally eligible for Medicaid pending the receipt of income documentation. Since your family was found fully eligible for Medicaid as of February 1, 2015, all eligibility determinations issued subsequent to June 2, 2015 are MODIFIED to reflect that your family is eligible for Medicaid coverage, without condition, until January 31, 2016.

**Effective Date of this Decision:** December 18, 2015

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

The December 26, 2014 disenrollment notice remains in effect and your family's eligibility has not changed.

Your family has fee-for-service Medicaid coverage from January 1, 2015 to June 30, 2015, and the effective date of your family's CDPHP MMC plan is July 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):**

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

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## **Summary**

The June 16, 2015 appeal of the December 26, 2014 disenrollment notice is untimely and is dismissed.

The May 30, 2015 and June 2, 2015 enrollment confirmation notices are **AFFIRMED**.

We note that there have been several eligibility determinations issued after June 2, 2015 that found least one of your family members conditionally eligible for Medicaid pending the receipt of income documentation. Since your family was found fully eligible for Medicaid as of February 1, 2015, all eligibility determinations issued subsequent to June 2, 2015 are **MODIFIED** to reflect that your family is eligible for Medicaid coverage, without condition, until January 31, 2016.

The December 26, 2014 disenrollment notice remains in effect.

Your family's eligibility has not changed.

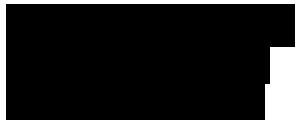
Your family has fee-for-service Medicaid coverage from January 1, 2015 to June 30, 2015.

The effective date of your family's CDPHP MMC plan is July 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:**



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