



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

## Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004876

[REDACTED]

Dear [REDACTED],

On January 29, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 19, 2015 and October 7, 2015 eligibility determinations regarding your eldest child.

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 45 CFR § 155.545(b).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004876



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your 14 year-old child was no longer eligible to enroll in Child Health Plus, effective July 31, 2015?

Did the Marketplace properly determine that your child was conditionally eligible to enroll in Child Health Plus at a cost of \$45.00 per month, effective November 1, 2015?

## Procedural History

On March 20, 2015, the Marketplace issued a notice of eligibility determination stating in part that your 14 year-old child (child) was conditionally eligible to enroll in Child Health Plus, effective May 1, 2015. The notice further requested that you provide documentation confirming your child's citizenship status before June 17, 2015.

Also on March 20, 2015, the Marketplace issued a notice confirming in part your child's enrollment in a Child Health Plus plan, which could start as early as May 1, 2015, provided you paid the first month's premium for that month.

As of June 17, 2015, you had not submitted your child's citizenship documentation so that his eligibility could be confirmed.

On July 19, 2015, the Marketplace issued a notice of eligibility redetermination stating that your child was no longer eligible to enroll in Child Health Plus through the Marketplace because you had not confirmed his citizenship status within the

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required timeframe. Your child's eligibility for coverage ended effective July 31, 2015.

Also on July 19, 2015, the Marketplace issued a notice that stated your child's enrollment in Child Health Plus was terminated effective July 31, 2015.

On October 6, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 19, 2015 determination and disenrollment notices insofar as your child was not eligible for and was disenrolled from his Child Health Plus plan, effective July 31, 2015.

On January 29, 2016, 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 support the following findings of fact:

- 1) The record reflects that at the time of the March 19, 2015 application, your child was 14 years old and did not have other health insurance coverage outside of the Marketplace.
- 2) According to your Marketplace application and your testimony, your child resides in [REDACTED] New York with you, your spouse, and his sibling. You testified that you and your family intend to remain in New York.
- 3) The Marketplace account indicates that your child's citizenship status and social security number were confirmed by the Marketplace on March 19, 2015, but that he was not a U.S. citizen as stated on your Marketplace application. You testified that he is a naturalized citizen.
- 4) The record reflects that your child was enrolled in Child Health Plus through the Marketplace for 2015 health insurance coverage as of May 1, 2015.
- 5) You testified that your child incurred medical expenses on or about October 6 or 7, 2015 for an emergent medical condition. You testified that you learned at that time that you did not have insurance for his hospitalization as his coverage had been terminated on July 31, 2015 for failure to confirm his citizenship status.
- 6) Your child's U.S. Passport was uploaded to your Marketplace account on October 6, 2015 and verified by the Marketplace (Document

██████████ His U.S. Passport was issued on March 3, 2015 and expires on March 2, 2020. His place of birth is listed as ██████████.

- 7) You testified that you have paid your child's monthly premium of \$45.00, which you were told by the health plan was being applied as credits toward your other child's future premiums.
- 8) You are seeking to have Child Health Plus reinstated for your child as of August 1, 2015.
- 9) According to your Marketplace account, your child was re-enrolled in a Child Health Plus plan effective November 1, 2015.

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 who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law § 2511(2)(a)-(e)).

Children who provide their Social Security number are not required to provide identity or citizenship documentation if eligible for Child Health Plus (42 CFR § 457.320(b)(6); *see, generally*, N.Y.S. Dept. of Health, Child Health Plus Plan Manual (March 2008)).

### Child Health Plus – Period of Eligibility

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 documentation and ending on the last day of the twelfth month following such

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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)).

## **Legal Analysis**

At issue under review is whether the Marketplace properly determined that your child was no longer eligible for financial assistance, including Child Health Plus, effective July 31, 2015.

According to your March 19, 2015 application, your child’s Social Security number was provided and was verified by the Marketplace.

According to your testimony at the January 29, 2016 hearing and the information available on the record, your child is 14 years old.

The record reflects that your child is a naturalized citizen and possesses an active United States passport.

According to the March 19, 2015 application, your child did not have other health insurance coverage outside of the Marketplace.

Your child lives with you, your spouse, and his sibling in [REDACTED] New York. According to your testimony, you and your family plan on remaining in New York.

Child Health Plus is available to a child who is under 19 years old, is a resident of New York, does not have other health insurance coverage, and is not eligible for, or enrolled in, Medicaid coverage. Children who have provided a Social Security number on the household’s Marketplace application are not required to provide identity or citizenship documentation if eligible for Child Health Plus.

It appears that, by listing your child as a U.S. Citizen on your application and not as a naturalized citizen, the Marketplace’s system could not verify his citizenship status with federal data sources and, therefore, made his eligibility conditioned upon proof of his citizenship status. However, such documentation is not required for a child to be found eligible for or to remain in Child Health Plus if the child’s Social Security number has been provided and can be verified. The record reflects that his Social security number was verified on March 19, 2015.

Further, since your child is 14 years old, resides with you, your spouse, and his sibling in New York and intends to remain in New York, did not have other health insurance coverage at the time of the March 19, 2015 application, and has a household income that is 318.85% of the federal poverty level for a household of four people, which is above the Medicaid eligibility threshold for children (154%),

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the Marketplace incorrectly found your child to be ineligible for Child Health Plus and incorrectly disenrolled him effective July 31, 2015.

Therefore, the July 19, 2015 eligibility redetermination that your son was not eligible for financial assistance and the July 19, 2015 disenrollment notice stating that his coverage was terminated effective July 31, 2015 are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to re-instate your child's eligibility for and enrollment in Child Health Plus, effective August 1, 2015.

You will be responsible for the monthly premiums for August, September, and October 2015 in order for your child's coverage to take effect.

## **Decision**

The July 19, 2015 eligibility redetermination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to re-instate your child's eligibility for and enrollment in Child Health Plus, effective August 1, 2015.

**Effective Date of this Decision:** February 12, 2016

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

Your case is **RETURNED** to the Marketplace to re-instate your child's eligibility for and enrollment in Child Health Plus, effective August 1, 2015.

You will be responsible for the monthly premiums for August, September, and October 2015 in order for your child's coverage to take effect.

In the event that you have a premium credit, you can work with the Child Health Plus plan to apply such credit toward the monthly premiums for any or all of the months at issue.

## **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.

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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:  
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- By fax: 1-855-900-5557

### **Summary**

The July 19, 2015 eligibility redetermination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to the Marketplace to re-instate your child's eligibility for and enrollment in Child Health Plus, effective August 1, 2015.

You will be responsible for the monthly premiums for August, September, and October 2015 in order for your child's coverage to take effect.

In the event that you have a premium credit, you can work with the Child Health Plus plan to apply such credit toward the monthly premiums for any or all of the months at issue.

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## **Legal Authority**

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

