



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

## Notice of Decision

Decision Date: April, 08 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000006002

[REDACTED]

Dear [REDACTED]

On April 4, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 5, 2016 eligibility determination regarding your children.

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

Decision Date: April, 08 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000006002



## Issue

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

Did the Marketplace properly determine that your children's coverage through Child Health Plus ended on December 31, 2015?

## Procedural History

According to your Marketplace account, your three children were disenrolled from their Child Health Plus plan, CDPHP, effective May 31, 2015.

According to a June 5, 2015 enrollment notice, your children were re-enrolled thereafter in their CDPHP Child Health Plus plan, effective July 1, 2015.

On October 24, 2015, the Marketplace issued a renewal notice that stated, based on information from federal and state data sources, a decision about whether or not you, your spouse, and your children were eligible for financial assistance in 2016 could not be made. The notice instructed you to update the information in your Marketplace account by December 15, 2015, and, if you miss this deadline, the assistance your family was currently receiving might end.

The information on your Marketplace account was not update by December 15, 2015.

On December 21, 2015, the Marketplace issued a notice of eligibility redetermination that stated your three children were not qualified to enroll through the Marketplace because you did not respond to the renewal notice and

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did not complete your renewal within the required timeframe. The notice further stated that, as a result, your children no longer qualify to receive financial assistance to help pay for their health coverage and their eligibilities would end effective December 31, 2015.

On December 22, 2015, the Marketplace issued a disenrollment notice confirming that your children's enrollment in their Child Health Plus plan, CDPHP, would end effective December 31, 2015.

On January 6, 2016, the Marketplace issued a notice of eligibility redetermination that stated your three children were eligible to enroll in Child Health Plus for a cost of \$30.00 per child per month, effective February 1, 2016.

Also on January 6, 2016, the Marketplace issued an enrollment notice confirming that your three children were enrolled in a Child Health Plus plan, CDPHP, effective February 1, 2016, with a monthly premium of \$90.00.

On January 6, 2016, you spoke to the Marketplace's Account Review Unit and appealed the gap in your children's coverage in their Child Health Plus plan during the month of January 2016.

On April 4, 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 supports the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing only your children's eligibility.
- 2) You testified that your children had been disenrolled from their CDPHP Child Health Plus plan effective May 31, 2015 and you were able to re-enroll them with an enrollment start date of July 1, 2015.
- 3) You testified that you believed this meant they had 12 months of coverage provided you paid the monthly premiums on time. You further testified that your spouse usually paid the premiums three months at a time and in advance.
- 4) You testified that you learned the children's coverage had been terminated effective December 31, 2015, when you took two of your children to the doctor's office for sick visits in January 2016.

- 5) You testified that you had to pay \$84.00 out-of-pocket for your children's prescription medications and are responsible for the cost of their doctor's visits.
- 6) You testified that you are seeking to have your three children's CDPHP Child Health Plus coverage backdated to January 1, 2016 to cover the medical expense you incurred that month.
- 7) According to your Marketplace account, at all times relevant, your three children reside with you and your spouse in Saratoga County, New York.

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 (CHP) 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 to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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 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**

The issue is whether the Marketplace properly determined that your children's enrollment in their CDPHP Child Health Plus plan ended effective December 31, 2015.

According to the June 5, 2015 enrollment notice and your children's respective enrollment histories, they were re-enrolled in their CDPHP Child Health Plus plan, effective July 1, 2015, after a two-month lapse in coverage. Their eligibility for and re-enrollment in Child Health Plus as of July 1, 2015 is not the basis of the appeal and is not directly under review here.

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Since the period of your children's Child Health Plus eligibility began on July 1, 2015, it continues until June 30, 2016, unless an event occurs to disqualify them from Child health Plus eligibility. The record does not indicate that any Child Health Plus premiums were not timely paid, that your children have gained access to or obtained other health insurance, or that your children have become eligible for Medicaid. The record does confirm that they still reside in New York State with you and your spouse.

When additional determinations were made and corresponding notices were issued on December 21, 2015, December 22, 2015, and January 6, 2016, the twelve-month period of Child Health Plus eligibility that began on July 1, 2015 had not expired, and no event had occurred to end that eligibility. Therefore, according to the credible evidence of record, your children's Child Health Plus coverage should not have ended effective December 31, 2015.

To bring the Marketplace's decisions into line with the record as currently developed, the following changes are made:

The October 24, 2015 renewal notice is modified to refer to only your and your spouse's need to renew.

The December 21, 2015 notice of eligibility redetermination stating that your children no longer qualified to receive financial assistance to help pay for their health coverage and their eligibilities would end effective December 31, 2015, is **RESCINDED**.

The December 22, 2015 disenrollment notice stating that your children's CDPHP Child Health Plus coverage would end effective December 31, 2015, is **RESCINDED**.

The January 6, 2016 notice of eligibility redetermination stating that your children are eligible to enroll in Child Health Plus effective February 1, 2016 is rendered moot by this decision.

The January 6, 2016 enrollment notice stating that your children are enrolled in CDPHP Child Health Plus effective February 1, 2016, is rendered moot by this decision.

## **Decision**

The October 24, 2015 renewal notice is modified to refer to only you and your spouse as needing to renew.

The December 21, 2015 notice of eligibility redetermination stating that your children no longer qualified to receive financial assistance to help pay for their health coverage and their eligibilities would end effective December 31, 2015, is **RESCINDED**.

The December 22, 2015 disenrollment notice stating that your children's CDPHP Child Health Plus coverage would end effective December 31, 2015, is **RESCINDED**.

The January 6, 2016 notice of eligibility redetermination stating that your children are eligible to enroll in Child Health Plus effective February 1, 2016 is rendered moot by this decision.

The January 6, 2016 enrollment notice stating that your children are enrolled in CDPHP Child Health Plus effective February 1, 2016, is rendered moot by this decision.

Your case is **RETURNED** to the Marketplace to facilitate reinstatement of your children's CDPHP Child Health Plus coverage effective January 1, 2016, and to notify you accordingly.

**Effective Date of this Decision:** April, 08 2016

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

The effective start date of your children's CDPHP Child Health Plus plan is July 1, 2015 and it will be reinstated effective January 1, 2016. Their coverage will continue until June 30, 2016 unless one of the events mentioned above occurs.

You are responsible for paying CDPHP the Child Health Plus premiums that are owed for your children for the January 2016 gap in coverage.

### **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.

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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 October 24, 2015 renewal notice is modified to refer to only you and your spouse as needing to renew.

The December 21, 2015 notice of eligibility redetermination stating that your children no longer qualified to receive financial assistance to help pay for their health coverage and their eligibilities would end effective December 31, 2015, is **RESCINDED**.

The December 22, 2015 disenrollment notice stating that your children's CDPHP Child Health Plus coverage would end effective December 31, 2015, is **RESCINDED**.

The January 6, 2016 notice of eligibility redetermination stating that your children are eligible to enroll in Child Health Plus effective February 1, 2016 is rendered moot by this decision.

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The January 6, 2016 enrollment notice stating that your children are enrolled in CDPHP Child Health Plus effective February 1, 2016, is rendered moot by this decision.

Your case is RETURNED to the Marketplace to facilitate reinstatement of your children's CDPHP Child Health Plus coverage effective January 1, 2016, and to notify you accordingly.

The effective start date of your children's CDPHP Child Health Plus plan is July 1, 2015 and it will be reinstated effective January 1, 2016. Their coverage will continue until June 30, 2016 unless one of the events mentioned above occurs.

You are responsible for paying CDPHP the Child Health Plus premiums that are owed for your children for the January 2016 gap in coverage.

### **Legal Authority**

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

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

