



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

## Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005358

[REDACTED]

Dear [REDACTED],

On February 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2015 eligibility determination 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 and Account ID at the top of this notice.

### Legal Authority

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

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 Account ID: [REDACTED]  
Appeal Identification Number: AP000000005358



## Issues

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

Is the Appeals Unit of NY State of Health (NYSOH) able to review your objection to your children's health plan cancelling your coverage due to non-payment of premiums?

Did NYSOH formally disenroll your children from their health plan effective November 30, 2015, or any other date?

Did NYSOH properly determine that your children's enrollment in a Child Health Plus plan was effective January 1, 2016?

## Procedural History

On December 21, 2014, an enrollment confirmation notice was issued confirming your children's enrollment in UnitedHealthcare Community Plan.

On October 22, 2015, a renewal notice was issued explaining that NYSOH did not have enough information from state and federal data sources to make a determination if you could receive financial assistance paying for your family's health coverage for the upcoming coverage year. You were directed to update the information in your account by December 15, 2015 or your financial assistance might end.

On November 1, 2015, an enrollment confirmation notice was issued confirming your children's enrollment in a Child Health Plus through a UnitedHealthcare

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Community plan “as of October 31, 2015,” with a premium responsibility of \$90.00 per month; this enrollment was effective “January 1, 2015” (*sic*).

On November 16, 2015, NYSOH issued a second renewal notice, stating that it was time to renew your coverage for the upcoming year. Your account was updated that day.

On November 22, 2015, NYSOH issued an eligibility determination notice stating that your three children eligible to enroll in Child Health Plus for a cost of \$30.00 per month pre child, effective January 1, 2016. The notice also stated that, “You can choose to stay with your current health plan or pick a new health plan. More information about choosing a health plan is in the ‘Health Plan Enrollment’ section of this letter.”

Also on November 22, 2015, a disenrollment notice was issued terminating your children’s coverage in their UnitedHealthcare Community Plan effective December 31, 2015 and advising you that if you had selected a new plan, a notice would be forthcoming.

On November 25, 2015, a notice was sent to you, reminding you that your children’s coverage with Child Health Plus could not begin until you selected plan for them.

On November 28, 2015, you requested a telephone hearing to appeal the start date of your children’s Child Health Plus plan.

On December 16, 2015, NYSOH issued an enrollment notice confirming that your children had been enrolled in the same Child Health Plus plan effective January 1, 2016, with a total premium to you of \$90.00 per month.

On February 17, 2016, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and kept open 15 days for you to provide proof of your children’s disenrollment from their Child Health Plus Plan effective October 31, 2015. On March 8, 2016 the NY State of Health Appeals Unit received your two page fax showing the cancellation letter from UnitedHealthcare dated November 6, 2015 (Appellant’s Exhibit 1).

## **Findings of Fact**

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

- 1) You testified, and the record reflects, that you are appealing only your three children’s eligibility and re-enrollment start date under their Child Health Plus plan.

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- 2) Your children were first found eligible for Child Health Plus at rate of \$30.00 per month each effective January 1, 2015.
- 3) The record supports that you re-enrolled your three children in a Child Health Plus plan for the upcoming coverage year on November 16, 2015.
- 4) On November 6, 2015, UnitedHealthcare issued a letter to you, stating that your children would be disenrolled from their Child Health Plus plan effective October 31, 2015, because of nonpayment of premiums (Appellant's Exhibit 1).
- 5) You testified and your NYSOH account supports that on November 16, 2015, you reenrolled your children in a Child Health Plus plan through NYSOH, with a monthly premium of \$30.00 each, with a start date of January 1, 2016.
- 6) You are seeking a start date of December 1, 2015 for your children's Child Health Plus plan.
- 7) Your NYSOH account reflects that you receive your notices from NYSOH by electronic notice.
- 8) You testified that your e-mail address has not changed.
- 9) The record supports that no disenrollment notice was issued by NYSOH disenrolling your children effective October 31, 2015, for non-payment of premiums or for any other reason.
- 10) Your NYSOH account indicates that your three children were covered by UnitedHealthcare Community Plan for all of 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 Effective Date

"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)).

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The State of New York has stated that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month (see e.g. SPA Amendment NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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)).

### Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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, and (4) a failure by the Exchange to provide timely notice of an eligibility determination (45 CFR § 155.505).

## **Legal Analysis**

The first issue under review is whether the Appeals Unit of NYSOH generally has the authority to review cancellations of coverage due to non-payment of premiums.

As noted above, 45 CFR § 155.505 authorizes the Appeals Unit of NYSOH to review certain actions taken by NYSOH, which are in general eligibility determinations or the failure of NYSOH to issue an eligibility determination. Your appeal was requested to dispute coverage having been cancelled due to nonpayment of premiums. This issue, however, is not one that the Appeals Unit of NYSOH is authorized to address, as it is not related to your actual eligibility.

The second issue under review is whether NYSOH did in fact disenroll your children from their health plan through Child Health Plus, whether on October 31, 2015, as indicated by your plan, or some other date.

Although the Appeals Unit has no jurisdiction over NYSOH having cancelled coverage due to the nonpayment of premiums, in this case no such cancellation was issued with regard to your coverage prior to December 31, 2015. Therefore, notwithstanding any notice that may have been sent to you by your health plan, your children were not disenrolled from their coverage in a Child Health Plus plan until December 31, 2015.

The third issue is did NYSOH properly determine that your children's reenrollment in a Child Health Plus plan was effective January 1, 2016.

The record indicates that you submitted your children's updated application and enrollment on November 16, 2015. You then reenrolled your children in a Child Health Plus plan through NYSOH that day with a start date of January 1, 2016.

The State of New York has stated that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month of the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month.

Since your children's application and enrollment was filed on November 16, 2015, their Child Health Plus plan properly took effect on January 1, 2016. Therefore NYSOH's November 22, 2015 eligibility determination notice was proper and is AFFIRMED.

## **Decision**

There is nothing in your NYSOH account to support a finding that your children were disenrolled from coverage through Child Health Plus prior to December 31, 2015.

The November 22, 2015 eligibility determination notice stating that your children were eligible for coverage through Child Health Plus effective January 1, 2016 was proper and is AFFIRMED.

Your case is to be RETURNED to NYSOH to facilitate the reenrollment of your children in their coverage, without any gap in coverage; you may owe additional premiums.

**Effective Date of this Decision:** May 20, 2016

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

Your children's coverage in a Child Health Plus plan was never properly terminated any earlier than December 31, 2015, and the effective date of their reenrollment in their Child Health Plus plan was January 1, 2016.

There should therefore not be any gap in coverage for your children, although you may owe additional premiums.

## **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 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 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
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## **Summary**

There is nothing in your NYSOH account to support a finding that your children were disenrolled from coverage through Child Health Plus prior to December 31, 2015.

The November 22, 2015 eligibility determination notice stating that your children were eligible for coverage through Child Health Plus effective January 1, 2016 was proper and is AFFIRMED.

Your case is to be RETURNED to NYSOH to facilitate the reenrollment of your children in their coverage, without any gap in coverage; you may owe additional premiums.

Your children's coverage in a Child Health Plus plan was never properly terminated any earlier than December 31, 2015, and the effective date of their reenrollment in their Child Health Plus plan was January 1, 2016.

There should therefore not be any gap in coverage for your children, although you may owe additional premiums.

## **Legal Authority**

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

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

