



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

## Notice of Decision

Decision Date: May 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005396

[REDACTED]

Dear [REDACTED]

On February 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 9, 2015 enrollment confirmation 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 the 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: AP000000005396



## Issue

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

Did NY State of Health (NYSOH) properly determine that your child's enrollment in his Child Health Plus plan for a cost of \$0.00 was effective July 1, 2015, with a plan start date of August 1, 2015?

## Procedural History

On May 14, 2015, NYSOH issued a renewal notice stating that, based on the information from federal and state data sources, a decision could not be made about whether you would qualify for financial assistance for the upcoming coverage year. You were directed to update the information in your account by June 15, 2015.

On June 17, 2015, an eligibility determination notice was issued finding your son no longer eligible to remain enrolled in Child Health Plus; however, his coverage would continue at a cost of \$0.00 per month until July 31, 2015. This eligibility was effective July 1, 2015.

On July 9, 2015, the NYSOH issued a notice of eligibility determination, based on your July 8, 2015 application, stating that your child was eligible to enroll in Child Health Plus at no cost, effective August 1, 2015. You were told that you can choose to stay with your current health plan or pick a new health plan.

On July 9, 2015, a disenrollment notice was issued terminating your son's enrollment in his Child Health Plus plan through Emblem Health effective July 31, 2015.

Also on July 9, 2015, the NYSOH issued a notice of enrollment, based on your plan selection on July 8, 2015, stating that your child was enrolled in a Child Health Plus plan with \$0.00 premium responsibility, and that your plan would start August 1, 2015 after you paid your first month's premium.

On December 2, 2015, you spoke to the NYSOH's Account Review Unit and appealed the start date of your enrollment in your child's Child Health Plus plan. You stated that your Child Health Plus plan was not recognizing enrollment for the month of September 2015.

On February 12, 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) You testified that you are appealing only your child's eligibility.
- 2) You submitted an application to the Marketplace for financial assistance on July 8, 2015.
- 3) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan through Emblem Health on July 8, 2015.
- 4) You testified that you need your child's Child Health Plus plan to begin on August 1, 2015.
- 5) You testified that your child's health plan is requiring a premium payment of \$319.85 for July 2015.
- 6) You testified that your son's health plan had told you that your son was disenrolled from his Child Health Plus plan for non-payment of premium effective July 31, 2015.
- 7) Your son incurred medical bills for the month of September 2015.
- 8) The record reflects that you applied with an annual household income amount of \$45,000.00.

9) Your son resides in a five person household.

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)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child’s family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual’s eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

### Child Health Plus Effective Dates

“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

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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 child’s enrollment in his Child Health Plus plan was effective August 1, 2015 with a \$0.00 premium responsibility.

On June 17, 2015, an eligibility determination notice was issued finding your son no longer eligible to remain enrolled in Child Health Plus; however, his coverage would continue at a cost of \$0.00 per month until July 31, 2015. This eligibility was effective July 1, 2015.

You testified that your child’s health plan is requiring a premium payment of \$319.85 for July 2015. You testified that your son’s health plan had told you that your son was disenrolled from his Child Health Plus plan for non-payment of premium effective July 31, 2015. Your son incurred medical bills for the month of September 2015, a month in which the health plan believes your son to be without coverage.

You testified that you contacted the Marketplace on July 8, 2015 and enrolled your child into a Child Health Plus plan.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. 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.

Since you applied and enrolled your son in his Child Health Plus plan on July 8, 2015, his enrollment should have become effective August 1, 2015. Since his prior enrollment ended on July 31, 2015, there should have been no gap in coverage.

No payments are required for eligible children whose family household income is less than 160% of the federal poverty level. In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual’s eligibility.”

On the date of your application, that was the 2015 FPL, which was \$28,410.00 for a five-person household. Since your application stated a household income of

\$45,000.000, your federal poverty level would be 158.39%. Your premium responsibility would therefore be \$0.00 per month.

Therefore, the July 9, 2015, enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective August 1, 2015, with \$0.00 premium responsibility, is correct and must be AFFIRMED.

Since it is inexplicable why your plan states you owe a premium for a period where NYSOH had found you eligible for fully subsidized CHP, your case is returned to NYSOH to facilitate the correction of this problem.

Since your son's prior enrollment ended on July 31, 2015, and his new enrollment began on August 1, 2015, there should be no gap in coverage.

## **Decision**

The July 9, 2015, enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** May 19, 2016

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

This decision does not change your child's eligibility.

Your child remains eligible for Child Health Plus with a \$0.00 premium responsibility effective July 1, 2015.

The effective date of your child's Child Health Plus plan is August 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 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

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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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The July 9, 2015, enrollment confirmation notice is AFFIRMED.

This decision does not change your child's eligibility.

Your child remains eligible for Child Health Plus with a \$0.00 premium responsibility effective July 1, 2015.

The effective date of your child's Child Health Plus plan is August 1, 2015.

Your case is returned to NYSOH to facilitate the correction of your son's account with the CHP plan.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.



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

