



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

**Notice of Decision**

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005614

[REDACTED]

Dear [REDACTED],

On March 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s December 4, 2015 eligibility determination and 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 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

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005614

[REDACTED]

## 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 children's enrollment in their Child Health Plus plan ended on November 30, 2015, and did not resume until January 1, 2016?

## Procedural History

On December 6, 2014, NYSOH issued a notice of eligibility determination, stating that your three oldest children ([REDACTED]) were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, effective January 1, 2015.

On January 6, 2015, NYSOH redetermined your three oldest children's eligibility, and found that they were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective February 1, 2015.

On March 17, 2015, NYSOH redetermined your three oldest children's eligibility, and again found that they were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective May 1, 2015.

On October 22, 2015, NYSOH redetermined your three oldest children's eligibility, and found that they were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2015.

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Also on October 22, 2015, a disenrollment notice was issued terminating your three oldest children's insurance coverage with Empire Blue Cross Blue Shield HealthPlus effective November 30, 2015, because the plan was being discontinued. The notice went on to say that if you did not select a plan by November 30, 2015, your children would no longer have coverage.

Also on October 22, 2015, and again on October 23, 2015, NYSOH issued a notice of enrollment, each stating that your children's coverage with Child Health Plus would not begin until you picked a plan.

On October 25, 2015, NYSOH issued a notice stating that it was time to renew your coverage, but that NYSOH needed more information before a determination could be made. You were directed to update your account by December 15, 2015, or the financial assistance you were receiving might end.

On December 4, 2015, NYSOH redetermined your three oldest children's eligibility and found that they were eligible for Child Health Plus, with a \$15.00 monthly premium each, effective January 1, 2016.

Also on December 4, 2015, an enrollment confirmation notice was issued confirming your children's enrollment in Child Health Plus with a \$45.00 premium responsibility per month and a start date of January 1, 2016.

On December 18, 2015, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin December 1, 2015.

On March 1, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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 three children's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on October 21, 2015.
- 3) You testified, and the record reflects, that you enrolled your children into a Child Health Plus plan on October 22, 2015.

- 4) Your account indicates that you began to update your account on November 27, 2015; however, that update was not completed until December 3, 2015.
- 5) It is known that there is, at times, a defect in NYSOH's system that results in a screen being shown that says, "Congratulations! We've enrolled everyone in their health plan for another year and you don't have to do anything more..." even though it is necessary to go through another step to complete the enrollment process.
- 6) An incident was created regarding the enrollment of your children into their health plan on December 16, 2015.
- 7) An incident was further recorded on December 18, 2015, by NYSOH admission, "It was identified the second confirm and check out was never completed resulting in a gap for December, 2015 CHP coverage for the appellant's 3 children." The record reflects this was the result of a phone call placed to NYSOH, and constitutes an acknowledgement that you had in fact attempted to update your account in a timely manner.
- 8) You testified that you need your children's Health Plus plan to begin on December 1, 2015 because they experienced a gap in coverage for the month of December 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 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)).

The "period of eligibility" for Child Health Plus 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 the 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 § 2510(6)).

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The State of New York has provided 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 following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The issue is whether the NY State of Health (NYSOH) properly determined that your children's enrollment in their Child Health Plus plan ended on November 30, 2015, and did not resume until January 1, 2016.

It is noted that, based solely on independent eligibility determinations made on December 6, 2014, January 6, 2015, March 17, 2015, October 22, 2015, and December 4, 2015, your three oldest children were eligible for coverage through a Child Health Plus plan, without interruption, since as early as January 1, 2014.

Each time NYSOH issued an eligibility determination stating that your three oldest children were still eligible for coverage through Child Health Plus, the 12-month period of eligibility was renewed. Moreover, you would not have to update your account for their coverage until close to the end of each 12-month period.

Because the December 6, 2014 eligibility determination found eligibility for Child Health Plus effective January 1, 2015, coverage for your three oldest children should have continued, without interruption, until at least the end of 2015.

However, as noted by the October 22, 2015 notice, the plan in which they were enrolled was being discontinued after November 30, 2015, so that plan would no longer be able to cover your children after that date. It stated that if you picked a plan by November 30, 2015, it would pick up your children's coverage without interruption.

You testified that you contacted NYSOH on October 21, 2015, and enrolled your children into a Child Health Plus plan on October 22, 2015.

Actions recorded in your account do show that you made an attempt to update your account before the November 30, 2015 deadline, but that the attempt was not completed until December 3, 2015.

Although generally, a child's enrollment in a Child Health Plus plan will begin on the first day of the next following month if the enrollment is made on or before the 15<sup>th</sup> of a month, in this case there are special circumstances.

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First, the only reason why an early re-enrollment was necessary was because the plan they were enrolled in (apparently) withdrew prematurely from participation in NYSOH. Because of that, you were required to select a plan for your children earlier than you otherwise would have.

Second, notes made by a representative of NYSOH confirm that the reason your children were not timely enrolled in a new plan is because you inadvertently failed to make the second and last confirmation of the enrollment process. Since it has been demonstrated to the Appeals Unit of NYSOH that in the past, a screen was shown to those re-enrolling in coverage, telling them that everyone in their family was successfully enrolled for another year, it is reasonable to believe that you were similarly misled into failing to fully complete the enrollment process.

Therefore, it is found that you did timely choose a new Child Health Plus plan for your children, but that because of a defect in the system, it was not properly processed, through no fault of your own.

Therefore, the December 4, 2015, enrollment confirmation notice stating that your three children's enrollment in their Child Health Plus plan was effective January 1, 2016, is MODIFIED to reflect a December 1, 2015 start date.

## **Decision**

The December 4, 2015 enrollment confirmation notice is MODIFIED to reflect that your children's coverage should have been renewed as of December 1, 2015, without any gap in coverage.

**Effective Date of this Decision:** June 8, 2016

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

Your children remain eligible for coverage in a Child Health Plus plan, without any gap in coverage.

Your case will be returned to NYSOH to facilitate the correction of your 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.

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

### **Summary**

The December 4, 2015 enrollment confirmation notice is MODIFIED to reflect that your children's coverage should have been renewed as of December 1, 2015, without any gap in coverage.

Your children remain eligible for coverage in a Child Health Plus plan, without any gap in coverage.

Your case will be returned to NYSOH to facilitate the correction of your coverage.

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## **Legal Authority**

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

