



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: AP000000005934

[REDACTED]

Dear [REDACTED],

On April 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 30, 2015 eligibility determination.

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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005934



## Issue

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

Did New York State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in his Child Health Plus plan was effective February 1, 2016?

## Procedural History

On September 23, 2014, NYSOH issued a notice of enrollment confirmation stating that your son's enrollment in his Fidelis Child Health Plus (CHP) plan with a \$60.00 monthly premium would start as early as November 1, 2014 if you paid your first month's premium.

On October 24, 2015, NYSOH issued a notice that it was time to renew your child's health insurance for the upcoming year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for his health coverage, and that you needed to update your account by December 15, 2015 or your child might lose the financial assistance he was currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that your child was newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2016. The notice further stated that your child was not eligible for Medicaid, CHP, the Essential Plan, or to receive

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Advance Premium Tax Credits because you had not responded to the renewal notice and had not completed the renewal within the required timeframe.

On December 22, 2015, NYSOH issued a disenrollment notice stating that your son's coverage in his Fidelis CHP plan would end effective December 31, 2015 because he was no longer eligible to remain enrolled in his current health insurance.

On December 29, 2015, NYSOH received your child's updated application for health insurance.

On December 30, 2015, NYSOH issued a notice of eligibility determination, based on your December 29, 2015 application, stating that your child was newly eligible to enroll in Child Health Plus with a \$60.00 monthly premium, effective February 1, 2016.

That same day, NYSOH sent a notice telling you that your child's CHP coverage would not begin until you picked a plan.

On January 4, 2016, your NYSOH account was updated and your son was enrolled in a CHP plan.

Also on January 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin January 1, 2016.

On January 5, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 4, 2016, stating that your child was enrolled in a CHP plan and that coverage would start on February 1, 2016.

On April 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open at the end of the hearing for 15 days so that you could submit proof of your payment of your child's CHP premium for January 2016.

On April 8, 2016, you faxed a twelve-page document, including the cover page, to NYSOH Appeals Unit. The document was uploaded to your NYSOH account on April 11, 2016 (Document [REDACTED]). This twelve-page document is entered into the record as "Appellant's Exhibit One."

On April 20, 2016 you uploaded a one-page document to your NYSOH account, addressed to the Hearing Officer. (Document [REDACTED]). This one-page document is entered into the record as "Appellant's Exhibit Two."

The record is now closed.

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## Findings of Fact

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

- 1) The record reflects that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices telling you that you needed to update your application in order to renew your child's coverage.
- 3) You further testified that you do not recall ever receiving any notices from NYSOH until you received a notice in the mail sometime the week of Christmas (December 25, 2015).
- 4) No notices have been returned to NYSOH as undeliverable.
- 5) You testified that you were not aware that you had a NYSOH account, and had never logged into it until December 2015, when you were directed to do so to submit a document regarding your older child's health insurance.
- 6) You testified that you were not aware that you had ever submitted an application through NYSOH. You testified that your child has had CHP since he was an infant, and that he has had Fidelis coverage for ten years. You testified that you have always completed your applications for coverage directly with the health plan, and with the assistance of the health plan.
- 7) You testified that you did not know that you needed to update your account until you called Fidelis in December 2015 to verify that your premium payment for your child's coverage was received for January 2016. You testified that you were informed that your payment had been received, but that your child's coverage was ending and you should contact NYSOH.
- 8) You testified that you paid the premium for your child's January 2016 coverage in December 2015, because you were intending for his coverage to continue unaware of any renewal requirement.
- 9) After the hearing, you faxed the following documents to NYSOH, which are all contained in Appellant's Exhibit One:
  - A one page fax cover sheet;

- A one-page printout from Fidelis Care titled “Account Details” with your name listed as “Responsible Party,” and your child’s name listed under “Member Name”;
  - A two-page printout from Fidelis Care titled “View Payment History,” which shows, on the second page, a \$30.00 payment for Invoice ID# [REDACTED] made on December 10, 2015;
  - A one-page Fidelis Care Child Health Plus Premium Notification dated January 9, 2016;
  - A one-page Fidelis Care Premium Billing Statement for January 2016, dated November 3, 2015;
  - A one-page Fidelis Care Premium Billing Statement for February 2016, dated December 3, 2015;
  - A one-page Fidelis Care Premium Billing Statement for December 2015, dated December 26, 2015;
  - A one-page Fidelis Care Premium Billing Statement for March 2016, dated January 29, 2016;
  - A one-page Fidelis Care Premium Billing Statement for April 2016, dated February 3, 2016;
  - A one-page Fidelis Care Premium Billing Statement for May 2016, dated March 3, 2016;
  - A one page Fidelis Care Premium Billing Statement for June 2016, dated April 4, 2016
- 10) After the hearing, you also uploaded a one-page letter addressed to the Hearing Officer in which you allege that you paid your January 2016 CHP premium on December 10, 2015, and in which you detail the doctor’s visits your son had in January 2016. You testified at the hearing that you now have bills for these visits. This document is included in the record as Appellant’s Exhibit Two.
- 11) The record reflects that on December 29, 2015, NYSOH received your child’s updated application for health insurance.
- 12) The record reflects that your child was enrolled in a CHP plan on January 4, 2016, with coverage beginning on February 1, 2016.
- 13) You testified that you are seeking that your child be enrolled in his CHP plan as of January 1, 2016.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

### Child Health Plus

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)).

"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 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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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## Legal Analysis

The issue under review is whether NYSOH properly determined that your child's enrollment in his CHP plan was effective February 1, 2016.

Your child was originally found eligible for CHP effective November 1, 2014.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 24, 2015 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his CHP plan, effective December 31, 2015.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account on your child's behalf. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned to NYSOH as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your need to renew your child's application and that information in your NYSOH account needed to be updated in order to ensure your child's continued enrollment in his Child Health Plus plan and for eligibility for financial assistance to continue.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on December 29, 2015, and selected a Child Health Plus plan for your child on January 4, 2016.

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 from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month until the end of the month goes into effect on the first day of the second following month.

Therefore, NYSOH's December 30, 2015 eligibility determination notice and NYSOH's January 5, 2016 enrollment confirmation notice are **AFFIRMED** because they properly began your child's eligibility for and enrollment in Child Health Plus on February 1, 2016. It is noted that even had you selected a plan on

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December 29, 2015, the start date of that plan would still have been February 1, 2016.

You also provided documentation after the hearing (Appellant's Exhibit One) which you allege shows that you paid your January 2016 CHP premium on December 10, 2015, and had the intention of continuing your son's CHP coverage in 2016, including the month of January 2016. You also provided a document in which you provide a breakdown of your CHP premium payments from December 2015 through the present.

The Appeals Unit has no authority to direct your plan to back date your son's coverage. However, given the evidence you submitted that documented you having paid the premiums for January 2016,

Therefore, your case is RETURNED to NYSOH for NYSOH to review the information you have provided, and to explore what options, if any, are available to you regarding your son's January 2016 CHP coverage. As part of this process, NYSOH will reach out to your son's CHP plan to involve them in determining what options may be available.

## **Decision**

The December 30, 2015 eligibility determination notice is AFFIRMED.

The January 5, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH so that NYSOH can review the additional information you have provided, and can determine what, if any, options may be available to you regarding your son's January 2016 CHP coverage.

NYSOH is directed to reach out to your son's CHP plan to involve them in the process of determining what options, if any, may be available to you regarding your son's January 2016 CHP coverage.

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

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

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is February 1, 2016.

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NYSOH will determine whether there are any other options available to you regarding your son's January 2016 CHP coverage, and will communicate their determination to you.

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

### **Summary**

The December 30, 2015 eligibility determination notice is **AFFIRMED**.

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The January 5, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH so that NYSOH can review the additional information you have provided, and can determine what, if any, options may be available to you regarding your son's January 2016 CHP coverage.

NYSOH is directed to reach out to your son's CHP plan to involve them in the process of determining what options, if any, may be available to you regarding your son's January 2016 CHP coverage.

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is February 1, 2016.

NYSOH will review the information you have provided and determine whether there are any other options available to you regarding your son's January 2016 CHP coverage, and will communicate their determination to you.

## **Legal Authority**

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

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

