



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

## Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006252

[REDACTED]

Dear [REDACTED],

On May 16, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's November 4, 2015 disenrollment 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 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).

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: May 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006252



## 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 coverage through Child Health Plus ended on November 30, 2015?

## Procedural History

On August 18, 2015, your NYSOH account was updated to indicate that your three children were seeking health insurance through NYSOH.

On August 19, 2015, NYSOH issued an eligibility determination notice stating that your three children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective October 1, 2015.

Also on August 19, 2015, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a Child Health Plus plan, that could start as early as October 1, 2015 if you pay your first month's premium.

On September 17, 2015, NYSOH issued a renewal notice stating, in part, that your children could not be enrolled in their current health plan and that you needed to select a different health plan if they want coverage as of December 1, 2015.

On November 4, 2015 NYSOH issued a disenrollment notice stating that your children's coverage through their Child Health Plus plan would end November 30, 2015.

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On November 24, 2015, you modified your household's application for health insurance.

On November 25, 2015 NYSOH issued an eligibility determination notice that your children were eligible for Child Health Plus, with a premium of \$60.00 per month, effective January 1, 2016.

On December 15, 2015 NYSOH issued an enrollment confirmation notice stating that your children were enrolled in their Child Health Plus plan, effective January 1, 2016.

On January 15, 2016, you spoke to NYSOH's Account Review Unit and appealed the gap in coverage your children experienced from their disenrollment and reenrollment into Child Health Plus.

On January 16, 2016, NYSOH issued a disenrollment notice stating that you requested that your children's coverage through their Child Health Plus plan end. Your children were disenrolled from their plan effective January 31, 2016.

Also on January 16, 2016 NYSOH issued an enrollment confirmation notice stating that your children were reenrolled into their Child Health Plus plan effective February 1, 2016.

On March 12, 2016 NYSOH issued an eligibility determination notice stating that your children were eligible for Medicaid effective March 1, 2016.

On May 16, 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, and the record reflects, that you are appealing only your children's eligibility.
- 2) The record indicates that your children's eligibility for Child Health Plus through NYSOH began October 1, 2015.
- 3) The events tab in your NYSOH account indicates that the NYSOH system disenrolled your children from coverage on November 30, 2015.

- 4) You testified that you were able to get your children enrolled into coverage for January 1, 2016, however you were told by your plan that they did not have coverage for that month because you failed to pay the premium amount for their coverage.
- 5) There is no indication in the record that your children were disenrolled from their Child Health Plus plan in January for non-payment.

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 NYSOH properly determined that your children’s enrollment in their Child Health Plus ended effective November 30, 2015.

On August 19, 2015, NYSOH issued a notice of eligibility determination for an application submitted for your child on August 18, 2015. It stated that, effective October 1, 2015 your children could enroll through Child Health Plus with a premium of \$9.00 per month. That eligibility determination has not been appealed and is not under review here.

Since the period of your child’s CHP eligibility began on October 1, 2015, it continues until September 30, 2015, unless an event occurs to disqualify them from eligibility. The record does not indicate that any Child Health Plus premiums

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were not timely paid, that your children gained access to or obtained other health insurance, or that a final determination was made making your children eligible for Medicaid.

When additional determinations were made after October 1, 2015, the twelve-month period of CHP eligibility that began had not expired, and no event had occurred to end that eligibility. According to the credible evidence of record, your children's coverage should not have ended effective November 30, 2015.

Therefore, the November 4, 2015 disenrollment notice stating that your children's Child Health Plus coverage would end effective November 30, 2015 is **RESCINDED**.

## **Decision**

The November 4, 2015 disenrollment notice stating that your children's Child Health Plus coverage would end effective November 30, 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to ensure that your children's Child Health Plus coverage is restored effective December 1, 2015 continuing until February 29, 2016.

**Effective Date of this Decision:** May 27, 2016

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

The effective date of your children's Child Health Plus plan is October 1, 2015 continuing until they became Medicaid eligible as of March 1, 2016.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month's your children experienced a 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 November 4, 2015 disenrollment notice stating that your children's Child Health Plus coverage would end effective November 30, 2015 is RESCINDED.

Your case is RETURNED to NYSOH to ensure that your children's Child Health Plus coverage is restored effective December 1, 2015 continuing until February 29, 2016.

The effective date of your children's Child Health Plus plan is October 1, 2015 continuing until they became Medicaid eligible as of March 1, 2016.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month's your children experienced a gap in coverage.

### **Legal Authority**

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

