



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

## Notice of Decision

Decision Date: May 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006327

[REDACTED]

Dear [REDACTED],

On May 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 6, 2015 eligibility redetermination and disenrollment notices regarding your child.

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 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006327



## 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 coverage through Child Health Plus (CHP) ended on December 31, 2015 and was later re-enrolled in the same CHP plan as of March 1, 2016?

## Procedural History

On August 22, 2015, NYSOH issued a notice of eligibility determination finding you conditionally eligible to receive advance payments of the premium tax credit (APTC) and cost sharing reductions and your child eligible to enroll in CHP with a \$9.00 monthly premium, both effective October 1, 2015. That notice instructed you to submit documents to prove your citizenship by November 19, 2015, so that your eligibility for APTC and cost sharing reductions could be confirmed. There was no condition placed on your child's eligibility.

Also on August 22, 2015, NYSOH issued an enrollment notice confirming in part that your child was enrolled in a CHP plan with Fidelis Care and had an enrollment start date of October 1, 2015.

No documents were submitted before November 19, 2015.

On December 6, 2015, NYSOH issued two notices of eligibility redetermination. The first notice stated that you were no longer eligible for financial assistance and could not enroll in a qualified health plan at full cost, effective December 31,

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2015, because you did not provide the required documentation to prove your citizenship and confirm your eligibility by the deadline. The second notice stated that your child was now conditionally eligible to enroll in CHP, effective January 1, 2016. That notice instructed you to submit documents to prove your household income before January 31, 2016 to confirm your child's eligibility.

Also on December 6, 2015, NYSOH issued a disenrollment notice that stated your child's 2015 coverage with Fidelis Care CHP would end effective December 31, 2015. The notice further stated that this was because your child was no longer eligible to remain enrolled in his current health insurance.

On January 12, 2016, you uploaded to your NYSOH account proof of your citizenship and your household's income.

On January 20, 2016, NYSOH issued a notice of eligibility redetermination that in part stated your child was conditionally eligible to enroll in CHP with a \$9.00 monthly premium and his household income needed to be provided by March 19, 2016 to confirm his eligibility.

Also on January 20, 2016, NYSOH issued an enrollment notice confirming in part that your child was enrolled in a Fidelis Care CHP plan with an enrollment start date of March 1, 2016.

On January 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the two month gap in coverage your child experienced due to his disenrollment and re-enrollment into a CHP plan with Fidelis Care.

On January 21, 2016, NYSOH issued notices of eligibility redetermination and enrollment finding your child fully eligible for CHP and enrolled in Fidelis Care CHP plan as of March 1, 2016.

On May 10, 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 supports the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing only your child's eligibility and enrollment in CHP.
- 2) According to your NYSOH account, on or about August 21, 2015, you enrolled your child in a CHP plan through NYSOH with an October 1, 2015 start date.

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- 3) You testified that you paid the first premium for your child's insurance to begin on October 1, 2015, and consistently paid all other premiums on time.
- 4) You testified that you were not aware that your child's health insurance had been terminated until early January 2016.
- 5) According to your NYSOH account and your testimony, you uploaded your U.S. passport and income documents on January 12, 2016.
- 6) According to your NYSOH account, these documents were verified on January 19, 2016, and on January 21, 2016, NYSOH found your child was fully eligibility for CHP and enrolled as of March 1, 2016.
- 7) You testified that as a result your child experienced a gap in his CHP coverage for the months of January 2016 and February 2016.
- 8) You testified that, in January 2016 and February 2016, your child was seen by doctors and required prescription medications and you paid for these services and medications out of pocket because your child had a gap in coverage both months.
- 9) According to your NYSOH account, your child did not obtain coverage outside NYSOH and did not become eligible for Medicaid.
- 10) According to your NYSOH account, your child has resided with you in Kings County, New York at all times relevant.

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

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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 child’s enrollment in his CHP plan ended effective December 31, 2015.

On August 22, 2015, NYSOH issued a notice of eligibility determination for an application submitted for your child on August 21, 2015. It stated that, effective October 1, 2015, your child could enroll in CHP without condition 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, 2016, unless an event occurs to disqualify him from CHP eligibility. The record does not indicate that any CHP premiums were not timely paid, that your child has gained access to or obtained other health insurance, or that your child have become eligible for Medicaid. The record does confirm that he still resides in New York State.

When additional determinations were made after August 22, 2015, the twelve-month period of CHP eligibility that began on October 1, 2015 had not expired, and no event had occurred to end that eligibility. Therefore, according to the credible evidence of record, your child’s CHP coverage should not have ended effective December 31, 2015.

To bring NYSOH’s decisions into line with the record as currently developed, the following changes are made:

The December 6, 2015 notice of eligibility redetermination regarding your child is **RESCINDED**.

The December 6, 2015 disenrollment notice stating that your child’s CHP coverage will end effective December 31, 2015 is **RESCINDED**.

The January 20 and 21, 2016 notices of eligibility redetermination and enrollment are **MODIFIED** to remove any reference to your child’s eligibility for or enrollment in CHP.

Your case is RETURNED to NYSOH to restore your child's CHP plan coverage as of January 1, 2016 through February 29, 2016 and continuing until September 31, 2016 or until one of the disqualifying events occurs.

You will be responsible for the premium due for the months of January 2016 and February 2016.

## **Decision**

The December 6, 2015 notice of eligibility redetermination regarding your child is RESCINDED.

The December 6, 2015 disenrollment notice stating that your child's CHP coverage will end effective December 31, 2015 is RESCINDED.

The January 20 and 21, 2016 notices of eligibility redetermination and enrollment are MODIFIED to remove any reference to your child's eligibility for or enrollment in CHP.

Your case is RETURNED to NYSOH to restore your child's CHP plan coverage as of January 1, 2016 through February 29, 2016 and continuing until September 31, 2016 or until one of the disqualifying events occurs.

**Effective Date of this Decision:** May 12, 2016

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

The effective date of your child's CHP plan is October 1, 2015. This coverage will continue until September 31, 2016 unless one of the events mentioned above occurs.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the months he 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

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must be done within four months after the date 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 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 December 6, 2015 notice of eligibility redetermination regarding your child is **RESCINDED**.

The December 6, 2015 disenrollment notice stating that your child's CHP coverage will end effective December 31, 2015 is **RESCINDED**.

The January 20 and 21, 2016 notices of eligibility redetermination and enrollment are **MODIFIED** to remove any reference to your child's eligibility for or enrollment in CHP.

Your case is **RETURNED** to NYSOH to restore your child's CHP plan coverage as of January 1, 2016 through February 29, 2016 and continuing until September 31, 2016 or until one of the disqualifying events occurs.

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The effective date of your child's CHP plan is October 1, 2015. This coverage will continue until September 31, 2016 unless one of the events mentioned above occurs.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the month's he experienced a gap in coverage.

## **Legal Authority**

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

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

