



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

## Notice of Decision

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006493

[REDACTED]

Dear [REDACTED]

On August 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 26, 2016 eligibility determination 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 NY State of Health Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations § 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).

This page intentionally left blank.



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

## Decision

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006493

[REDACTED]

## Issue

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

Did NY State of Health properly determine that your children's eligibility for and enrollment in their Child Health Plus plan was effective March 1, 2016?

## Procedural History

On October 22, 2015, NYSOH issued a notice stating that it was time to renew your children's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your account by December 15, 2015 or your children might lose the financial assistance they were currently receiving.

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

On December 21, 2015, NYSOH issued an eligibility redetermination notice stating that your children were not eligible for Medicaid, Child Health Plus, Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your children's eligibility was to end effective December 31, 2015.

On January 10, 2016, NYSOH received your children's updated application for health insurance.

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).

On January 11, 2016, NYSOH issued a notice of eligibility determination, based on your January 10, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 per child monthly premium, effective February 1, 2016. That notice of eligibility determination also stated that you needed to pick a health plan for the children.

On January 25, 2016, you updated your account and picked a Child Health Plus plan for your children.

On January 26, 2016, NYSOH issued a notice of eligibility determination, based on your January 25, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 per child monthly premium, effective March 1, 2016.

Also on January 26, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 25, 2016, confirming your children's enrollment in a Child Health Plus plan with coverage to start on March 1, 2016.

On January 26, 2016 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 February 1, 2016.

On August 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 support the following findings of fact:

- 1) You testified that, during the time frame in question, you had elected to have alerts regarding all your notices sent electronically to both you and your authorized representative.
- 2) You credibly testified that neither you nor your authorized representative received any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your children's coverage.
- 3) The record reflects that, on January 10, 2016, NYSOH received your children's updated application for health insurance.
- 4) You credibly testified that neither you nor your authorized representative received any electronic alert for NYSOH's January 11,

2016 eligibility determination notice regarding the children's eligibility for Child Health Plus and the need to pick a Child Health Plus plan.

- 5) You testified that one of your children had a medical condition that needed treatment and prescription drugs during February 2016. You paid for those treatments and prescriptions.
- 6) You testified that you are seeking to have your children be enrolled in their Child Health Plus plan as of February 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)).

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).

“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).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children’s enrollment in their Child Health Plus plan was effective March 1, 2016.

On January 10, 2016, NYSOH made a preliminary determination that your children were found eligible for Child Health Plus effective February 1, 2016.

The January 11, 2016 eligibility determination notice based on that January 10, 2016 application stated that your children were eligible for Child Health Plus effective February 1, 2016, but you needed to pick a plan.

However, you testified and the record reflects that you requested NYSOH to send electronic alerts to you and your authorized representative. You credibly testified that neither you nor your authorized representative received any electronic alert regarding the January 11, 2016 eligibility determination notice, which directed you to pick a Child Health Plus plan in your NYSOH account on behalf of your children. There is no evidence in your account documenting that any email alert was sent to you or your authorized representative regarding the need to pick a Child Health Plus plan for your children.

Therefore, it is concluded that on January 11, 2016, NYSOH did not give you the proper notice that you needed to pick a Child Health Plus plan on your children's behalf. Therefore we must assume that had you been properly informed of the need to pick a Child Health Plus plan for your children by January 11, 2016, you would have done so in a timely manner.

Therefore, the January 26, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children were eligible to enroll in Child Health Plus with a \$27.00 total premium per month; and the January 26, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective February 1, 2016.

## **Decision**

The January 26, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children are eligible to enroll in Child Health Plus with a \$27.00 total premium per month.

The January 26, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

**Effective Date of this Decision:** August 16, 2016

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

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of February 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of February 1, 2016.

You will be responsible to pay the total premium for the month of February 2016.

## **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.

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).

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 January 26, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children are eligible to enroll in Child Health Plus with a \$27.00 total premium per month.

The January 26, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective February 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of February 1, 2016.

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).



Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of February 1, 2016.

You will be responsible to pay the total premium for the month of February 2016.

### **Legal Authority**

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

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

