



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

## Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006579

[REDACTED]

Dear [REDACTED],

On June 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2016 enrollment confirmation 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 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 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006579

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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that your spouse's and oldest son's coverage in their Essential Plan was effective as of March 1, 2016?

Did NYSOH properly determine that your three youngest children's coverage in a Child Health Plus plan was effective as of March 1, 2016?

## Procedural History

On February 12, 2015, NYSOH issued a notice of eligibility determination stating that your spouse and children were eligible for Medicaid effective December 1, 2014, and they were subsequently enrolled into a Medicaid Managed Care (MMC) plan.

On December 19, 2015, NYSOH issued a renewal notice stating that it was time to renew your family's health insurance for 2016. That notice also stated that based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for their health coverage, and that you needed to update your account by January 15, 2016, or your family members might lose the financial assistance they were currently receiving.

On January 14, 2016, you updated your NYSOH account.

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On January 15, 2016, NYSOH issued an eligibility determination notice stating that your spouse and your oldest son were eligible to enroll in the Essential Plan with a \$20 monthly premium, effective February 1, 2016. That same notice also stated that your three youngest children were eligible to enroll in Child Health Plus (CHP) coverage with a \$9.00 monthly premium, effective February 1, 2016.

Also on January 15, 2016, NYSOH issued a disenrollment notice stating that your family's coverage in their MMC plan would end effective January 31, 2016.

On January 23, 2016, an enrollment confirmation notice was issued that stated that you had selected an Essential Plan for your spouse and oldest son, and that their enrollment would begin on March 1, 2016. The notice also stated that you had selected a CHP plan for your three youngest children, and that their enrollment would also begin on March 1, 2016.

On January 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation insofar as it began your spouse and oldest son's Essential Plan coverage, and your youngest children's CHP coverage, on March 1, 2016, and not February 1, 2016.

On May 31, 2016, you were scheduled to have a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit, at which time you requested an adjournment. The hearing was adjourned to, and held on, June 7, 2016. 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 updated your family's application for health insurance on January 14, 2016.
- 2) The record reflects that you completed your renewal by logging into your NYSOH account.
- 3) You testified that you received the December 19, 2015 renewal notice, and that you believed that you had completed everything by the January 15, 2016 deadline so that there would not be a lapse in your family's coverage.
- 4) You testified that your family all had coverage through Fidelis last year when they were receiving Medicaid, and that you were happy with the Fidelis coverage.

- 5) You testified that you thought you only needed to make a plan selection during renewal if you wanted a new plan. You testified that, since you were happy with the coverage your family had received through Fidelis, you did not want a new plan, and did not think that you had to re-select Fidelis as your family's plan.
- 6) You testified that you do not recall the system prompting you to select a plan during renewal. You testified that the system only prompted you to select a plan if you wanted to choose a new plan for coverage.
- 7) The record reflects that on January 22, 2016, you selected health plans for your family.
- 8) You testified that you have outstanding medical bills from the month of February 2016, and that you had to pay out of pocket to bring one of your children to the doctor in February 2016.
- 9) You testified that you are seeking for your spouse and son's Essential Plan enrollment to begin as of February 1, 2016, and your three youngest children's enrollment in their CHP plan to begin 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**

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your spouse and oldest son’s enrollment in their Essential Plan was effective March 1, 2016.

The record reflects that you updated your family’s application for health insurance on January 14, 2016, and your spouse and oldest son were found eligible for the Essential Plan as of February 1, 2016. They were subsequently enrolled in an Essential Plan on January 22, 2016, with an enrollment start date of March 1, 2016.

The date on which enrollment in an Essential 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 to the end of the month goes into effect on the first day of the second following month.

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On January 22, 2016, you selected an Essential Plan, so your spouse and son's enrollment would ordinarily take effect on the first day of the second month following January; that is, on March 1, 2016.

However, you testified that, when you renewed your family's coverage through your online NYSOH account on January 14, 2016, the system only prompted you to select a plan if you wanted to choose a new plan for coverage. You testified that your family had been pleased with the coverage they received through Fidelis, so you did not think you needed to select a plan if you wanted to keep coverage through Fidelis.

The Appeals Unit cannot see the application as it appeared to you when you updated your account, and therefore cannot see whether you were prompted to select a plan. You provided credible testimony that you were only told to select a plan if you wanted a different plan, and since you wanted to keep Fidelis for your spouse and son, you did not select a new plan. Since the Appeals Unit cannot view the screens that you viewed when you renewed your coverage, there is nothing in the record to refute your credible testimony. Moreover, your testimony is supported by the fact that you completed your renewal on time, which would indicate that you were attempting to follow the proper procedures and avoid any gaps in coverage.

Therefore, the January 23, 2016 enrollment confirmation notice is MODIFIED to state that your spouse and son's enrollment in their Essential Plan coverage began as of February 1, 2016.

The second issue under review is whether NYSOH properly determined that your three youngest children's enrollment in their CHP plan coverage began as of March 1, 2016.

The record reflects that, when you completed your family's renewal application on January 14, 2016, your three youngest children were found eligible for CHP, effective February 1, 2016. They were subsequently enrolled into a CHP plan on January 22, 2016, with an enrollment start date of March 1, 2016.

Ordinarily, 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 between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

On January 22, 2016, you selected a CHP plan, so your children's enrollment would ordinarily take effect on the first day of the second month following January; that is, on March 1, 2016.

However, as stated above, you did not select a plan on January 14, 2016 because you believed that you only needed to select a plan if you wanted to remove your children from Fidelis coverage. For the reasons stated above, it was reasonable for you to believe that you had done everything necessary to avoid a gap in coverage for your children.

Therefore, the January 23, 2016 enrollment confirmation is MODIFIED to state that your three youngest children's enrollment in their CHP plan began as of February 1, 2016.

## **Decision**

The January 23, 2016 enrollment confirmation notice is MODIFIED to state that your spouse and son's enrollment in their Essential Plan coverage began on February 1, 2016.

The January 23, 2016 enrollment confirmation notice is MODIFIED to state that your three youngest children's enrollment in their CHP plan coverage began on February 1, 2016.

Your case is RETURNED to NYSOH to facilitate your spouse and son's enrollment into their Essential Plan for the month of February 2016, and to facilitate your three youngest children's enrollment into their CHP plan for the month of February 2016.

**Effective Date of this Decision:** June 23, 2016

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

Your spouse and son's enrollment in their Essential Plan coverage should have started on February 1, 2016.

Your three youngest children's enrollment in their CHP plan coverage should have started on February 1, 2016.

Your case is being returned to NYSOH to facilitate your family's enrollment in coverage 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.

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 23, 2016 enrollment confirmation notice is MODIFIED to state that your spouse and son's enrollment in their Essential Plan coverage began on February 1, 2016.

The January 23, 2016 enrollment confirmation notice is MODIFIED to state that your three youngest children's enrollment in their CHP plan coverage began on February 1, 2016.

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Your case is RETURNED to NYSOH to facilitate your spouse and son's enrollment into their Essential Plan for the month of February 2016, and to facilitate your three youngest children's enrollment into their CHP plan for the month of February 2016.

Your spouse and son's enrollment in their Essential Plan coverage should have started on February 1, 2016.

Your three youngest children's enrollment in their CHP plan coverage should have started on February 1, 2016.

Your case is being returned to NYSOH to facilitate your family's enrollment in coverage 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:**

