



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

## Notice of Decision

Decision Date: July 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007017

[REDACTED]

Dear [REDACTED]

On July 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 6, 2016 disenrollment notice and February 12, 2016 enrollment notice as these notices relate to your children.

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 (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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007017

[REDACTED]

## Issues

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

Did NY State of Health properly issue a disenrollment notice stating that your children's insurance with their Child Health Plus plan was terminated, effective January 31, 2016, due to nonpayment of premium?

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

## Procedural History

On December 16, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination that in part stated your children were eligible to enroll in Child Health Plus with a \$90.00 monthly premium, effective January 1, 2016.

On December 18, 2015, NYSOH issued an enrollment notice, based on your plan selection for your children that day, that stated your children were enrolled in a Child Health Plus plan, UnitedHealthcare Community Plan, with an enrollment start date of January 1, 2016. The notice further instructed that, if you have a monthly premium, you will receive an invoice from your health plan, which you must pay to start and keep coverage. The notice also informed you that you and your spouse had to pick a health plan.

On February 3, 2016, NYSOH issued another enrollment notice confirming that you and your spouse had selected a platinum couple's plan on February 2, 2016,

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and restating that your children were enrolled in a Child Health Plus plan, effective January 1, 2016.

On February 6, 2016, NYSOH issued a disenrollment notice that stated your children's health insurance with their Child Health Plus plan was terminated effective January 31, 2016 due to nonpayment of premium within the required timeframe.

On February 11, 2016, NYSOH preliminarily confirmed that your children were being re-enrolled in their Child Health Plus plan with March 1, 2016 as their enrollment start date.

Also on February 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the March 1, 2016 start date of your children's Child Health Plus plan insofar as your request to have it backdated to February 1, 2016 was denied.

On July 19, 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 you are appealing only your children's disenrollment date of January 31, 2016 and re-enrollment start date of March 1, 2016.
- 2) According to your NYSOH account, your children were enrolled in a Child Health Plus plan effective January 1, 2016.
- 3) You testified that you attempted to make an online payment to their health insurance plan on Sunday, January 31, 2016, but the system was not operational so your payment could not be processed.
- 4) You testified that you contacted your children's Child Health Plus plan in the morning on Monday, February 1, 2016 and explained the difficulty you had the day before and were told it would be taken care of, that your account had to be updated so payment that day could not be accepted, and to make payment in a few days once your account was set.
- 5) You testified that your two children were ill and had to be seen by their doctor on Monday, February 1, 2016.

- 6) You testified that you attempted to make a payment two to three days later and received a notice that your children's coverage had been terminated for nonpayment of premium.
- 7) You testified that you contacted the Child Health Plus plan and were told the information you were given during your first telephone conversation on Monday, February 1, 2016, was incorrect and it was against company rules to allow reinstatement. You testified that you were referred to NYSOH for further assistance.
- 8) You testified that you want your children's coverage in their Child Health Plus plan to be backdated to February 1, 2016 to cover the expenses you incurred for their medical care that day.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination (45 CFR § 155.505), and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### 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 on appeal is whether NYSOH properly terminated your children’s coverage in their Child Health Plus plan, effective January 31, 2016, as stated in the February 6, 2016 disenrollment notice.

Initially, the February 6, 2016 disenrollment notice issued by NYSOH was based upon the health insurance plan’s notification that it had terminated your children’s coverage, effective January 31, 2016, due to nonpayment of premium.

The decision to terminate coverage due to nonpayment of premium and/or to reinstate coverage that has been terminated due to nonpayment of premium lies solely with the health insurance plan in accordance with their internal processes. You credibly testified that the health plan ultimately declined to reinstate your children’s coverage based on its rules.

The NYSOH Appeals Unit does not have the authority to reinstate coverage that has been terminated for nonpayment of premium and when, as here, the health plan has declined reinstatement. Therefore, your appeal in this regard must be dismissed because it is not an issue that the NY State of Health Appeals Unit is authorized to review.

The second issue on appeal is whether NYSOH properly determined that your children’s re-enrollment in their Child Health Plus plan was effective March 1, 2016.

The record reflects and you credibly testified that you contacted NYSOH on February 11, 2016 and re-enrolled your children into a Child Health Plus plan.

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.

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Therefore, the February 12, 2016 enrollment confirmation notice stating that your child's enrollment in their Child Health Plus plan was effective March 1, 2016, is correct and must be AFFIRMED.

## **Decision**

Your appeal regarding the Child Health Plus plan's decision not to reinstate your children's coverage after being terminated for nonpayment of premium must be dismissed because it is not an issue that the NY State of Health Appeals Unit is authorized to review.

The February 12, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** July 22, 2016

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

This decision does not change your children's eligibility.

Your children's coverage in their Child Health Plus plan was terminated by their health insurance plan, effective January 31, 2016, for nonpayment of premium.

The effective date of your children's re-enrollment in their Child Health Plus plan is March 1, 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 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).

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
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- By fax: 1-855-900-5557

## **Summary**

Your appeal regarding the Child Health Plus plan's decision not to reinstate your children's coverage after being terminated for nonpayment of premium must be dismissed because it is not an issue that the NY State of Health Appeals Unit is authorized to review.

The February 12, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

Your children's coverage in their Child Health Plus plan was terminated by their health insurance plan, effective January 31, 2016, for nonpayment of premium.

The effective date of your children's re-enrollment in their Child Health Plus plan is March 1, 2016.

## **Legal Authority**

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



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

