



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

**Notice of Decision**

Decision Date: September 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007039

[REDACTED]

Dear [REDACTED],

On July 21, 2016 you, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2016 eligibility determination and disenrollment notices.

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.

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## Decision

Decision Date: September 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007039



## Issue

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

Did New York State of Health (NYSOH) properly determine that your child's eligibility for financial assistance and enrollment in a Child Health Plus plan ended effective January 31, 2016?

## Procedural History

On July 24, 2015, your child was added to your NYSOH account and an application was submitted on her behalf.

On July 25, 2015, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in Child Health Plus (CHP), with a \$15.00 per month premium, effective September 1, 2015. The notice further requested that you provide documentation confirming her citizenship status and Social Security number before October 22, 2015.

Also on July 25, 2015, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective September 1, 2015.

On September 28, 2015, you updated your NYSOH account.

On September 29, 2015, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible for CHP, with a monthly premium of \$15.00, effective November 1, 2015. The notice further requested that you

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provide documentation confirming her citizenship status and Social Security number before December 27, 2015.

Also on September 29, 2015, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective September 1, 2015.

On January 3, 2016 NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on January 3, 2016 NYSOH issued a disenrollment notice stating that your child's enrollment in her CHP plan would end effective January 31, 2016.

On February 5, 2016, information in your NYSOH account was updated and your child was reenrolled into her CHP plan.

On February 5, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a \$30.00 per month premium, effective March 1, 2016.

Also on February 5, 2016, NYSOH issued a notice confirming her enrollment in a CHP plan, effective March 1, 2016.

On February 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the January 3, 2016 eligibility determination and disenrollment notices insofar as they ended your child's financial assistance eligibility and enrollment in CHP for the month of February 2016.

On July 21, 2016, your spouse 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) The record reflects that, on October 25, 2013, NYSOH issued a letter informing you that you were enrolled to receive email alerts from NYSOH regarding notices issued in your online account.
- 2) [REDACTED] testified that you, [REDACTED] signed up with NYSOH on the phone with a broker from Oscar. She further testified that she recalled

you specifically stating to the person who assisted you with your application that you did not want to receive email notices.

- 3) Your spouse testified that neither she nor you were aware that emails were being sent to you, and that you were receiving notices from NYSOH by mail.
- 4) Your spouse testified that she added your child to your NYSOH account in July of 2015 over the phone while speaking with a NYSOH representative.
- 5) The record indicates that your child was born on [REDACTED] and was added to your NYSOH application on July 24, 2015. That application stated that she was a United States Citizen and that she did not have a Social Security number because she needed to apply for one.
- 6) Your spouse testified that she was never informed that she needed to submit proof of your child's citizenship and Social Security number.
- 7) Your spouse testified that you did not receive the eligibility determination notices from July 2015 and September 2015 that stated that your child's eligibility was only conditional, and that you needed to provide proof of your child's citizenship status and Social Security number.
- 8) Your spouse testified that you did not know that you needed to submit documentation of your child's Social Security number and citizenship status until you received a letter in January 2016 informing you that your child had been disenrolled from her CHP coverage.
- 9) Your spouse testified that she called NYSOH when you received this letter in January, and was informed by a NYSOH representative that a letter was sent regarding the need to provide your child's Social Security number. She testified that she told the NYSOH representative that she had not received the letter, and was informed that the notice had been sent by email.
- 10) The record reflects that your child's Social Security number was provided on February 5, 2016.
- 11) Your spouse testified that you are seeking reinstatement for your child into her CHP plan as of February 1, 2016 because you have unpaid medical bills for her for that month.

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

## **Applicable Law and Regulations**

### Child Health Plus - Generally

A child who meets the eligibility requirements for Child Health Plus 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 (NY PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NYSOH for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security number to provide the number but does not require an applicant's Social Security number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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 alerts, 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 child's eligibility and enrollment in CHP terminated effective January 31, 2016.

NYSOH is required to determine whether children are eligible to enroll in coverage, and must confirm, among other things, their Social Security number and that their citizenship status is satisfactory.

If NYSOH cannot verify a child's Social Security number and citizenship status, it must provide notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

The record indicates that your child was added to your NYSOH application on July 24, 2015. That application stated that she was a United States Citizen and that she did not have a Social Security number because she needed to apply for one. In the eligibility determinations issued on July 25, 2015 and September 29, 2015 you were advised that your child's eligibility was only conditional, and that you needed to confirm her citizenship status and Social Security number. The

September 29, 2015 eligibility determination gave you until December 27, 2015 to provide the requested documentation.

The record indicates that NYSOH did not receive the requested documentation before the deadline.

However, you testified and the record reflects that your spouse elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that your spouse did not receive an electronic alert in his main inbox regarding the eligibility determination notices, which advised you that your child's eligibility was only conditional and that you needed to submit additional information. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation. Furthermore, you testified that a broker assisted you in filing all of your family's applications for health insurance and that at no point did he ask or inform you that you needed to provide your child's Social Security number.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your child's Social Security number and citizenship status.

Furthermore, when NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from her CHP plan was dated January 3, 2016. Though your account showed that you were enrolled in electronic alerts, you testified that you received this notice in the mail, which means it is considered to have been received by January 8, 2016. This left you with only one week to resolve the issue and re-enroll your child in coverage so as to avoid a gap for the month of February 2016, which is an insufficient amount of time when the health insurance coverage of a child through CHP is at issue.

Since you were not made aware of the need to submit your child's Social Security number, and did not receive proper and timely notice that there was an inconsistency in your NYSOH account as it related to your child's eligibility, the January 3, 2016 eligibility determination stating that she was no longer eligible for failure to submit documentation and the January 3, 2016 disenrollment notice ending her Child Health Plus plan as of January 31, 2016 were incorrect and are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child's coverage in her CHP plan for the month of February 2016, without interruption. You will be responsible for any unpaid premiums.



## **Decision**

The January 3, 2016 notice of eligibility determination is RESCINDED.

The January 3, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NY State of Health to reinstate your child's coverage in her CHP plan for the month of February 2016, without interruption. You will be responsible for any unpaid premiums.

**Effective Date of this Decision:** September 30, 2016

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

NY State of Health erred in disenrolling your child from her CHP plan effective January 31, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of February 2016, without interruption.

You are responsible for any unpaid 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.

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

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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 3, 2016 notice of eligibility determination is RESCINDED.

The January 3, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NY State of Health to reinstate your child's coverage in her CHP plan for the month of February 2016, without interruption. You will be responsible for any unpaid premiums.

NY State of Health erred in disenrolling your child from her CHP plan effective January 31, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of February 2016, without interruption.

You are responsible for any unpaid 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:**

