



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

## Notice of Decision

Decision Date: August 03, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007140

[REDACTED]

Dear [REDACTED],

On July 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 11, 2015 eligibility determination notice and November 6, 2015 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 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: August 03, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007140



## Issue

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

Was your appeal of NY State of Health's July 11, 2015 and November 6, 2015 eligibility determination notices timely?

## Procedural History

On July 10, 2015, your NYSOH account was updated to add your newborn daughter to your account.

On July 11, 2015, NYSOH issued an eligibility determination notice that stated, in part, that your newborn daughter was conditionally eligible to enroll in a full price Child Health Plus (CHP) plan, or Child-Only qualified health plan, effective August 1, 2015. The notice further stated that you needed to confirm your daughter's citizenship status and Social Security number by October 8, 2015.

Also on July 11, 2015, NYSOH issued a notice of enrollment confirmation, confirming your daughter's enrollment in a CHP plan, effective August 1, 2015.

On October 14, 2015, NYSOH issued a notice of eligibility determination stating that your daughter was not eligible to enroll in any health insurance coverage through NYSOH because you had not provided proof of her citizenship status and Social Security number as required. The notice stated that your daughter's eligibility would end on October 31, 2015.

On November 5, 2015, your NYSOH account was updated.

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On November 6, 2015, NYSOH issued a notice of eligibility determination stating, in part, that your daughter was eligible to enroll in a full price CHP plan or Child-Only qualified health plan, effective December 1, 2015.

On February 17, 2016, you spoke with NYSOH's Account Review Unit and filed a formal appeal based on the July 11, 2015 eligibility determination notice, insofar as it did not begin your daughter's eligibility for CHP on July 1, 2015, and the November 6, 2015 eligibility determination notice, insofar as it did not begin your daughter's eligibility for CHP on November 1, 2015.

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 supports the following findings of fact:

- 1) You testified that you are appealing the start date of your daughter's CHP coverage in that it did not start as of the date she was born, and you are appealing the gap in your daughter's coverage for the month of November 2015.
- 2) The record reflects that your daughter was born on [REDACTED], and you confirmed that this is correct.
- 3) You testified that you asked NYSOH about getting your daughter coverage after she was born in both January 2015 and again shortly before your daughter was born. You testified that you were told just to call NYSOH when your baby was born.
- 4) You testified that you called in July 2015 to enroll your daughter in coverage and were not told when her coverage would start.
- 5) You testified that you probably received the July 11, 2015 eligibility determination notice which stated that your daughter's coverage started August 1, 2015 and also that you needed to provide information regarding her citizenship status and Social Security number. You testified that things were very busy after the baby was born and you probably didn't follow up on the notice because of this.
- 6) You testified that you do recall getting notices, but you were not specifically sure if you received the October 14, 2015 notice that stated that your daughter was no longer eligible to enroll and that her eligibility was ending as of October 31, 2015.

- 7) You testified that you did not realize that your daughter did not have coverage in July and November 2015 until you started getting bills from your daughter's doctor sometime in December 2015 or January 2016
- 8) You testified that you understand that you should have read the notices you did receive more carefully, but that you feel that you were given misinformation when you spoke with people from NYSOH on the phone, and that some of the information in the notices was never given to you verbally.
- 9) You testified that you have outstanding bills for your daughter for both July and November 2015.
- 10) The record reflects that you first contacted NYSOH to make a complaint about the start date of your daughter's coverage on February 17, 2016, and that a formal appeal was filed that same day.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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) a determination of eligibility for a special enrollment period; (3) a failure by the Exchange to provide a timely notice of an eligibility determination (45 CFR §§ 155.505, 155.420).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

## **Legal Analysis**

The only issue under review is whether your appeal of NYSOH's July 11, 2015 and November 6, 2015 eligibility determination notices was timely.

On July 11, 2015, NYSOH issued an eligibility determination notice that stated that your daughter was eligible for CHP effective August 1, 2015.

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 November 6, 2015, NYSOH issued an eligibility determination stating that our daughter was eligible for CHP, effective December 1, 2015.

The record reflects that the first time you called NYSOH to file a complaint in regards to the start date of your daughter's CHP coverage in either decision was on February 17, 2016, and a formal appeal was filed that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the effective date of your daughter's eligibility for CHP as stated in the July 11, 2015 eligibility determination, an appeal should have been filed by September 9, 2015. Likewise, for an appeal to have been valid on the issue of the effective date of your daughter's eligibility for CHP as stated in the November 6, 2015 eligibility determination, an appeal should have been filed by January 5, 2016. According to the credible evidence in the record, you did not contact NYSOH until February 17, 2016 to file a formal appeal, which is well beyond 60 days from both the July 11, 2015 and November 6, 2015 eligibility determination notices.

Therefore, there has been no valid appeal of the July 11, 2015 and November 6, 2015 notices, and your appeal on the issue of the effective date of your daughter's CHP coverage as stated in those notices is **DISMISSED**.

## **Decision**

Your appeal of the July 11, 2015 eligibility determination notice is untimely and is **DISMISSED**.

Your appeal of the November 6, 2015 eligibility determination notice is untimely and is **DISMISSED**.

**Effective Date of this Decision:** August 03, 2016

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

Your daughter's eligibility remains the same.

Your daughter was eligible for CHP coverage effective August 1, 2015.

Your daughter was not eligible for CHP coverage in the month of November 2015.

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## **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 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**

Your appeal of the July 11, 2015 eligibility determination notice is untimely and is **DISMISSED**.

Your appeal of the November 6, 2015 eligibility determination notice is untimely and is **DISMISSED**.

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Your daughter's eligibility remains the same.

Your daughter was eligible for CHP coverage effective August 1, 2015.

Your daughter was not eligible for CHP coverage in the month of November 2015.

### **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.



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

