



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

## Notice of Decision

Decision Date: August 08, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007282



Dear [REDACTED],

On July 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 23, 2016 eligibility determination and enrollment 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 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).

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## Decision

Decision Date: August 08, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007282



## Issue

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

Did NY State of Health (NYSOH) properly determine that your daughter's eligibility for and enrollment in her Child Health Plus plan was effective April 1, 2016?

## Procedural History

On November 29, 2014, NYSOH issued a notice of eligibility determination, based on your November 25, 2014 application, stating that your daughter was eligible for Child Health Plus with a \$9.00 premium per month, effective January 1, 2015. Your daughter was subsequently enrolled in a Child Health Plus plan.

On October 24, 2015, NYSOH issued a notice stating that it was time to renew your daughter'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 daughter would qualify for financial help paying for her health coverage, and that you needed to update your account by December 15, 2015 or your daughter might lose the financial assistance she was currently receiving.

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

On December 21, 2015, NYSOH issued an eligibility determination notice stating that your daughter was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your

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daughter 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 daughter's eligibility ended effective December 31, 2015.

On December 23, 2015, NYSOH issued a disenrollment notice confirming that your daughter's CHP coverage would end effective December 31, 2015 because you did not renew your health insurance coverage.

On February 22, 2016, NYSOH received your daughter's updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your daughter was eligible to enroll in CHP with a \$30.00 monthly premium, effective April 1, 2016.

Also on February 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you were seeking for your daughter's CHP coverage to begin no later than March 1, 2016.

On February 23, 2016, NYSOH issued a notice of eligibility determination, based on your February 22, 2016 application, stating that your daughter eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective April 1, 2016.

Also on February 23, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 22, 2016, stating that your daughter was enrolled in a Child Health Plus plan and that coverage would start on April 1, 2016.

On July 28, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence copies of your daughter's 2015 and 2016 CHP cards. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On August 2, 2016, you provided the above referenced documents to the Appeals Unit through by facsimile.

Accordingly, the record was closed on August 2, 2016.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) The record reflects that you elected to receive all of your notices from NYSOH by electronic mail.

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- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your daughter's coverage.
- 3) You testified that you did not know that you needed to update your account until February 22, 2016 when you learned from your daughter's doctor that she was not covered.
- 4) The record reflects that on February 22, 2016, NYSOH received your daughter's updated application for health insurance. She was found eligible for coverage through CHP effective April 1, 2016.
- 5) You testified that were forced to pay approximately \$175.00 in out-of-pocket costs, and possibly additional bills forthcoming for lab work, in connection with doctor's visits by your daughter during the month of March 2016.
- 6) You testified that you are seeking that your daughter be enrolled in her CHP plan as of March 1, 2016 in order to cover the out-of-pocket costs incurred during that month.
- 7) You testified that you did not consistently check your NYSOH account for notices because the insurance card provided to you by your daughter's insurance carrier stated that recertification would not need to be completed until February 28, 2026.
- 8) You further testified, and provided documentation after the hearing reflecting, that your daughter has since been issued a new insurance card that no longer contains a recertification date.

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)).

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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)).

"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 daughter's enrollment in her CHP plan was effective April 1, 2016.

Your daughter was originally found eligible for Child Health Plus effective January 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 24, 2015 renewal notice stated that there was not enough information to determine whether your daughter eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your daughter was terminated from her CHP plan, effective December 31, 2015.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account on behalf of your daughter. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your daughter's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your daughter's behalf.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on February 22, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice. You further testified that you were only seeking a backdate of the start of your daughter's CHP plan to March 1, 2016, since you only incurred out-of-pocket costs during the month of March 2016.

Therefore, the February 23, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your child is eligible to enroll in CHP with a \$30.00 premium per month, and the February 23, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her CHP plan is effective March 1, 2016.

## **Decision**

The February 23, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your daughter is eligible to enroll in Child Health Plus with a \$30.00 premium per month.

The February 23, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her Child Health Plus plan is effective March 1, 2016.

**Effective Date of this Decision:** August 08, 2016

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

Your daughter's eligibility for and enrollment in their CHP plan should have been effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan as of 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 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.

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## **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:  
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- By fax: 1-855-900-5557

## **Summary**

The February 23, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your daughter is eligible to enroll in Child Health Plus with a \$30.00 premium per month.

The February 23, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her Child Health Plus plan is effective March 1, 2016.

Your daughter's eligibility for and enrollment in their CHP plan should have been effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan as of 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:**

