



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

## Notice of Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007364

[REDACTED]

Dear [REDACTED]

On September 23, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 24, 2016 eligibility determination and the February 24, 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).

This page intentionally left blank.



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

## Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AC0003981276



## 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 enrollment in an Essential Plan was effective April 1, 2016?

Did NYSOH properly determine that your son was disenrolled from his Child Health Plus plan effective February 29, 2016 and was not re-enrolled until April 1, 2016 resulting in a gap in coverage during the month of March?

## Procedural History

On November 7, 2015, NYSOH issued a notice that it was time to renew your health insurance and your son'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 you and your son would qualify for financial help paying for health coverage, and that you needed to update your account by December 15, 2015 or you and your son might lose the financial assistance each of you were currently receiving.

No updates were made to your account by December 15, 2016.

On December 21, 2015 NYSOH issued an eligibility determination notice stating in part that you were newly eligible to pick a health plan at full cost effective January 1, 2016. Your eligibility for financial assistance ended December 31, 2015. This was because you had not responded to the renewal notice and had

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).

not completed yours or your son's renewal within the required time frame. That same notice stated your son is no longer eligible for Child Health Plus, however, your son would have continuous Child Health Plus coverage until October 31, 2016.

On February 5, 2016, NYSOH received yours and your son's updated application for health insurance.

On February 6, 2016, NYSOH issued a notice, based on your February 5, 2016 application, stating that you and your son may be eligible to enroll in health insurance through NYSOH, but more information was necessary to make a determination.

Also on February 6, 2016, NYSOH issued a disenrollment notice stating in part that your coverage in a full cost qualified health plan would terminate on February 29, 2016. That same disenrollment notices stated that your son's 2016 coverage in Child Health Plus would end February 29, 2016.

On February 24, 2016, (NYSOH issued a notice of eligibility determination, stating that you were newly eligible to enroll in the Essential Plan and your son was eligible to enroll in Child Health Plus. You and your son were subsequently enrolled in the Essential Plan and the Child Health Plus plan effective April 1, 2016.

Also on February 24, 2016 NYSOH issued a notice of enrollment, based on your plan selection and your son's plan selection on February 23, 2016, stating that you were enrolled in an Essential Plan and your son was enrolled in the Child Health Plus plan, and that your plans would start April 1, 2016.

On February 24, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your enrollment in the Essential insofar as it did not begin January 1, 2016 and your son's Child Health Plus plan insofar as it did not begin on March 1, 2016.

On September 23, 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, and the record reflects, that you receive all of your notices from NYSOH by regular mail.

- 2) You testified that you did not receive any notices telling you that you needed to update your application in order to renew yours and your son's health coverage for 2016.
- 3) You testified that you did not know that you needed to update your account until you went to the doctor's office in January 2016. At that time the doctor advised you that you and your son weren't covered.
- 4) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 5) The record reflects that on February 5, 2016 NYSOH received your updated application for health insurance and that your application was deemed completed on February 23, 2016 once your income was verified.
- 6) According to your NYSOH account, the February 5, 2016 update of your application resulted in you and your son being disenrolled systematically from your full cost qualified health plan and his Child Health Plus plan, effective February 29, 2016.
- 7) You testified, and the record reflects, that you enrolled in an Essential Plan on February 23, 2016.
- 8) The record reflects that your son was redetermined eligible to enroll in Child Health Plus, effective date of April 1, 2016. On that day his enrollment was submitted for the same Child Health Plus on February 23, 2016, with an enrollment start date of April 1, 2016.
- 9) You testified that you wanted your enrollment in an Essential Plan to begin on January 1, 2016 and your son's enrollment to begin on March 1, 2016 because you have medical bills.

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, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information

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).

for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that 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)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### 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)).

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR §155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

### 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

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).

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that your enrollment in the Essential Plan was effective April 1, 2016.

NYSOH must redetermine a qualified individual’s eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual’s projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On November 7, 2015, NYSOH issued a notice that it was time to renew your health insurance and your son’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 you and your son would qualify for financial help paying for your health coverage or your son’s health coverage, and that you needed to update your account by December 15, 2015 or you and your son might lose the financial assistance you and your son were currently receiving.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was terminated effective December 31, 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).

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your enrollment in your health plan and eligibility for financial assistance would continue.

You testified, and the record indicates, that you updated your NYSOH application on February 5, 2016. On that day you were deemed conditionally eligible for health insurance pending receipt of income verification. When the Marketplace cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation. Your application was deemed completed on February 23, 2016 once your income was verified. As a result, you were found fully eligible for the Essential Plan and enrolled into a plan that day.

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.

On February 23, 2016, you selected an Essential Plan, so your enrollment properly took effect on the first day of the second month following February; that is, on April 1, 2016

Therefore, the February 24, 2016 eligibility determination stating that you are eligible for the Essential Plan is AFFIRMED insofar as it makes your effective date of coverage April 1, 2016. Likewise, the February 24, 2016 enrollment confirmation notice stating that your enrollment in the Essential Plan was effective April 1, 2016, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your son was disenrolled from his Child Health Plus plan effective February 29, 2016 and was not re-enrolled until April 1, 2016 resulting in a gap in coverage during the month of March.

On December 23, 2015 NYSOH issued an eligibility determination notice stating that your son is no longer eligible for Child Health Plus, because you had not responded to the renewal notice and had not completed your son's renewal

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).



within the required time frame but your son would have continuous Child Health Plus coverage in the same plan until October 31, 2016.

You updated your account information on February 5, 2016, which resulted in your son being disenrolled from his Child Health Plus plan, effective February 29, 2016.

Since the period of your children's Child Health Plus eligibility and enrollment began on November 1, 2015, both continue until October 31, 2016, unless an event occurs to disqualify them from Child Health Plus eligibility or enrollment. The record does not indicate that any Child Health Plus premiums were not timely paid, that your son has gained access to or obtained other health insurance, or that your son has become eligible for Medicaid. The record does confirm that he has been a resident of New York State at all times. Therefore, the credible evidence of record supports that your son's coverage should have continued until October 31, 2016.

Therefore, the February 24, 2016 notice of eligibility redetermination is MODIFIED to state that your son was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective March 1, 2016; and the February 24, 2016 enrollment notice is MODIFIED to state that your son was enrolled in his Child Health Plus plan, effective March 1, 2016, with a total monthly premium of \$9.00.

Your case is RETURNED to NYSOH to ensure your son's Child Health Plus coverage is restored effective March 1, 2016.

You will be responsible for paying the March 2016 premium of \$9.00.

## **Decision**

The February 24, 2016 eligibility determination is AFFIRMED, insofar as the effective date of your Essential Plan coverage is April 1, 2016.

The February 24, 2016 notice of eligibility redetermination is MODIFIED to state that your son was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective March 1, 2016.

The February 24, 2016 enrollment notice is AFFIRMED, insofar as the effective date of your Essential Plan coverage is April 1, 2016.

The February 24, 2016 enrollment notice is MODIFIED to state that your son was enrolled in his Child Health Plus plan, effective March 1, 2016, with a total monthly premium of \$9.00.

Your case is RETURNED to NYSOH to ensure that your son's Child Health Plus coverage is restored effective March 1, 2016.

**Effective Date of this Decision:** October 3, 2016

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

This decision does not change your eligibility.

The effective date of your Essential Health Plan is April 1, 2016.

The effective date of your son's Child Health Plus plan is March 1, 2016.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month of March 2016, during which your son experienced a gap in coverage.

### **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):**

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).

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 February 24, 2016 eligibility determination and February 24, 2016 enrollment confirmation notice is **AFFIRMED** in part and **MODIFIED** in part.

This decision does not change your eligibility.

The effective date of your Essential Health Plan is April 1, 2016.

The February 24, 2016 eligibility determination notice for your son is **MODIFIED** to state that that your son was eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective March 1, 2016.

The February 24, 2016 enrollment confirmation notice is **MODIFIED** to state that your son's enrollment in his Child Health Plus plan was effective as of March 1, 2016.

You will be responsible to pay the March 2016 premium of \$9.00.

Your case is **RETURNED** to NYSOH to facilitate and ensure that your son's Child Health Plus coverage is restored effective 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:**

