



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

## Notice of Decision

Decision Date: August 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007458



Dear [REDACTED]

On August 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 2016 disenrollment notice and February 18, 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 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 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007458



## Issues

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

Did NY State of Health properly determine that your children's enrollment in their Child Health Plus plan ended as of February 29, 2016?

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

## Procedural History

On October 25, 2015, NY State of Health (NYSOH) issued a notice stating that it was time to renew your children'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 children would continue to qualify for financial help paying for their health coverage, and that you needed to update your account by December 15, 2015, or your children might lose the financial assistance they were currently receiving.

On November 16, 2015, your NYSOH account was updated.

On November 22, 2015, NYSOH issued an eligibility determination notice stating that your two older children were eligible to enroll in Child Health Plus (CHP), with a monthly premium of \$0.00, effective January 1, 2016. The notice also stated that your youngest child was no longer eligible for Medicaid coverage, but that her coverage would continue until January 31, 2016. The notice directed you to come back between "December 17, 2015 and January 16, 2016" (*sic*) to

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update the information in your NYSOH account so that a decision could be made as to her eligibility then.

On November 25, 2015, NYSOH issued an enrollment confirmation notice confirming your older two children's enrollment in a CHP plan with no monthly premium, effective January 1, 2016. The notice also confirmed your youngest child's enrollment in her Medicaid Managed Care plan, effective February 1, 2015.

On December 27, 2015, your NYSOH account was updated.

On December 28, 2015, NYSOH issued an eligibility determination notice stating that your two older children were eligible for CHP coverage with no premium, effective February 1, 2016, and your youngest child was newly eligible for CHP with no monthly premium, effective February 1, 2016.

Also on December 28, 2015, NYSOH issued an enrollment confirmation notice confirming that your three children were enrolled in a CHP plan with no monthly premium, effective January 1, 2016.

On January 8 and 10, 2016, you updated your NYSOH account.

On January 9, 2016, NYSOH issued an eligibility determination notice stating that your three children were eligible to enroll in CHP with no monthly premium, effective February 1, 2016.

On January 9 and 11, 2016, NYSOH issued enrollment confirmation notices confirming your children's enrollment in their CHP plan with no monthly premium, effective January 1, 2016.

On February 12, 2016, your family members' enrollments were updated by a NYSOH representative.

On February 13, 2016, NYSOH issued an enrollment confirmation notice confirming your children's enrollment in their CHP plan with no monthly premium, effective January 1, 2016.

On February 17, 2016, your family members' enrollment was updated by [REDACTED] through your NYSOH account.

On February 18, 2016, NYSOH issued a disenrollment notice stating that your children were disenrolled from their CHP plan, effective February 29, 2016.

That same day, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in the same CHP plan with no monthly premium, effective April 1, 2016.

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On February 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan, insofar as it did not begin January 1, 2016 for your older two children, and February 1, 2016 for your youngest child.

On August 3, 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) The record reflects that your two older children were confirmed for enrollment in their CHP plan with a start date of January 1, 2016.
- 2) The record reflects that your youngest child was confirmed for enrollment in her CHP plan with a start date of February 1, 2016.
- 3) You testified that you discovered your children's coverage was not active when you scheduled an appointment for them with their dentist and were told that their coverage was not active. You testified that their appointment was scheduled for early February 2016.
- 4) You testified that you weren't aware that there was a problem with their coverage in January 2016 because none of your children had medical appointments that month.
- 5) You testified that, when you found out that your children did not have coverage, you spoke with their health plan and were told that there was no record of their enrollment.
- 6) You testified that you contacted NYSOH "a few times" to try to have the problem with your children's coverage corrected.
- 7) You testified that, when you received the notice stating that your children's coverage would begin as of April 1, 2016, you contacted NYSOH and were told that someone else had updated your account, which caused the new enrollment start date.
- 8) Your NYSOH account contains the following note, entered on February 17, 2016 at 7:48:01 AM by [REDACTED], "Disenrolled and re-enrolled children in Excellus CHP due to plan not seeing coverage."

- 9) You testified that you do not recall speaking with anyone from NYSOH on February 17, 2016.
- 10) You also testified that no one ever informed you that they were going to disenroll and re-enroll your children to try to correct the problem with their coverage.
- 11) You testified that you were told your children's coverage would be backdated, but were then told that you would have to file an appeal.
- 12) You testified that your children's enrollment in their CHP plan began on April 1, 2016, so your appeal is with regard to the months prior to April 2016.
- 13) You testified that you do not have medical bills from the months when your children were without coverage.
- 14) You testified that you are seeking for your older two children's enrollment in their CHP plan to begin as of January 1, 2016, and your youngest child's enrollment in her CHP plan to begin as of February 1, 2016.

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

## **Applicable Law and Regulations**

### 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)).

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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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your children's enrollment in their CHP plan ended effective February 29, 2016.

The record reflects that you enrolled your two older children in their CHP plan on November 16, 2015, with an enrollment start date of January 1, 2016. The record further reflects that you enrolled your youngest child in her CHP plan on December 27, 2015 with an enrollment start date of February 1, 2016.

You testified that, in late January or early February 2016, your children's health plan informed you that there was no record of their enrollment. You contacted NYSOH to try to correct this issue. The record reflects that, in an apparent attempt to address the problem, a representative from NYSOH disenrolled your children from their CHP plan, and then re-enrolled them, on February 17, 2016. This resulted in a disenrollment notice being issued which stated that your request to end insurance coverage for your children was received on February 17, 2016. You testified that you did not request for this to be done, and that you were never informed that NYSOH was planning to disenroll and re-enroll your children in their CHP coverage.

Therefore, the February 18, 2016 disenrollment notice is RESCINDED.

The second issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was effective April 1, 2016.

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.

As previously stated, NYSOH correctly enrolled your older two children in their CHP plan as of January 1, 2016 and your youngest child as of February 1, 2016, based on the dates when you selected their plan. These enrollment start dates were accurately stated in several notices from NYSOH.

However, because a NYSOH representative disenrolled and re-enrolled your children in coverage on February 17, 2016, this caused them to have a new enrollment start date of April 1, 2016. Ordinarily, this would be the correct start date based on the date the plan was selected, but, in this case, the need to select a plan only arose because your children were improperly disenrolled from their coverage by a NYSOH representative.

Since your children were improperly disenrolled from their CHP plan, the February 18, 2016 enrollment confirmation notice is MODIFIED to state that [REDACTED] and [REDACTED] are enrolled in their CHP plan with a start date of January 1, 2016, and [REDACTED] is enrolled in the same plan with a start date of February 1, 2016.

Your case is RETURNED to NYSOH to facilitate your children's enrollment in their CHP plan with the respective start dates listed above.

## **Decision**

The February 18, 2016 disenrollment notice is RESCINDED.

The February 18, 2016 notice of enrollment confirmation is MODIFIED to state that [REDACTED] and [REDACTED] are enrolled in their CHP plan with a start date of January 1, 2016, and [REDACTED] is enrolled in the same CHP plan with a start date of February 1, 2016.

Your case is RETURNED to NYSOH to facilitate your children's enrollment in their CHP plan according to the start dates listed above.

**Effective Date of this Decision:** August 19, 2016

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

Your oldest two children's CHP plan enrollment began on January 1, 2016, and your youngest child's CHP plan enrollment began on February 1, 2016.

Your children should not have been disenrolled from their CHP coverage as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan according to the start dates listed above.



## **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):**

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 18, 2016 disenrollment notice is **RESCINDED**.

The February 18, 2016 notice of enrollment confirmation is **MODIFIED** to state that [REDACTED] and [REDACTED] are enrolled in their CHP plan with a start date of January 1, 2016, and [REDACTED] is enrolled in the same CHP plan with a start date of February 1, 2016.

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Your case is RETURNED to NYSOH to facilitate your children's enrollment in their CHP plan according to the start dates listed above.

Your oldest two children's CHP plan enrollment began on January 1, 2016, and your youngest child's CHP plan enrollment began on February 1, 2016.

Your children should not have been disenrolled from their CHP coverage as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan according to the start dates listed above.

### **Legal Authority**

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

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

