



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

## Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007514

[REDACTED]

Dear [REDACTED],

On May 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 12, 2016 cancellation notice and February 23, 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 (CFR) 45 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007514



## Issues

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

Did NY State of Health properly determine that your youngest child's enrollment in his Child Health Plus plan was terminated effective February 1, 2016 for non-payment of premium?

Did the NY State of Health properly determine that your youngest child's enrollment in his Child Health Plus plan was effective April 1, 2016?

## Procedural History

On January 9, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your January 8, 2016 application, stating that your youngest child was eligible to enroll in Child Health Plus effective February 1, 2016.

Also on January 9, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 8, 2016 stating that your youngest child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start February 1, 2016.

On February 12, 2016, a cancellation notice was issued terminating coverage for your youngest child effective February 1, 2016. This was because a premium payment had not been received by the health plan.

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On February 22, 2016, you reenrolled your youngest child into a Child Health Plus plan.

On February 23, 2016, a notice of enrollment was issued confirming your child's enrollment in a Child Health Plus plan with an April 1, 2016 start date.

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

On May 5, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open 15 days until May 20, 2016 for you to provide supporting documentation of your payments sent to your health plan. That documentation was received via fax by the NYSOH Appeals Unit on May 19, 2016 in the form of an 8 page fax and incorporated into the record as (Appellant's Exhibit 1).

## **Findings of Fact**

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

- 1) You testified that you are appealing only your youngest child's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on January 8, 2016.
- 3) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on January 8, 2016.
- 4) You testified that you need your child's Child Health Plus plan to begin on February 1, 2016 because that is when you initially had him enrolled in his coverage.
- 5) You testified that your daughter receives Child Health Plus coverage outside of the NYSOH through the same plan that your youngest child is enrolled in.
- 6) You testified that you had sent your premium payment for your son and daughter to the health plan but that it was applied in total to your daughter's account only (Appellant's Exhibit 1 pg. 2, 3).
- 7) The record indicates that on February 22, 2016 you reenrolled your youngest child into a Child Health Plus plan.

- 8) The record reflects that your youngest child has been enrolled into a Child Health Plus plan through NYSOH since April 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)).

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 *e.g.* State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### Appealable Issues

An applicant has the right to appeal: (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) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

## Legal Analysis

The first issue is whether NYSOH properly determined that your youngest child's enrollment in his Child Health Plus plan was terminated effective February 1, 2016 for non-payment of premium.

The record indicates that on January 8, 2016, you enrolled your youngest child into a Child Health Plus plan through NYSOH. As a result, his coverage was to be made effective as of February 1, 2016.

On February 12, 2016, a cancellation notice was issued terminating coverage for your youngest child effective February 1, 2016. This was because a premium payment had not been received by the health plan.

You requested an appeal to dispute in part you youngest child being disenrolled from his coverage for nonpayment of premium. You testified that you had sent your premium payment for your son and daughter to the health plan but that it was applied in total to your daughter's account only (Appellant's Exhibit 1 pg. 2, 3).

The failure to pay premiums or the health plans failure to apply premium payments correctly, is not an issue the NYSOH Appeals Unit is authorized to address. Therefore, your appeal of cancellation notice for non-payment dated February 12, 2016 is DISMISSED.

However, it is clear from the record that there was a significant error in processing of your premium payments. Therefore, we are RETURNING your case to NYSOH's Plan Management Unit to further investigate.

The second issue is whether NYSOH properly determined that your youngest child's enrollment in his Child Health Plus plan was effective April 1, 2016.

The record indicates that after your youngest child was terminated from his Child Health Plus plan as of February 1, 2016 for nonpayment of premiums, you reenrolled him child into a Child Health Plus plan on February 22, 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.

Therefore, the February 23, 2016 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective April 1, 2016, is correct and must be AFFIRMED because it properly began his coverage as of the first day of the second following month after February.

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## **Decision**

Your appeal of the February 12, 2016 cancellation notice is **DISMISSED**.

Your case will be **RETURNED** to NYSOH's Plan Management Unit to further investigate the error in the processing of your premium payments.

The February 23, 2016 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** June 16, 2016

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

This decision does not change your child's eligibility.

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

This decision does return your case to NYSOH's Plan Management Unit to further investigate the issue.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

## **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

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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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Your appeal of the February 12, 2016 cancellation notice is **DISMISSED**.

The February 23, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your child's eligibility.

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

This decision does **RETURN** your case to NYSOH's Plan Management Unit to further investigate the issue.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

### **Legal Authority**

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

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

