



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

## Notice of Decision

Decision Date: October 18, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007684

[REDACTED]

Dear [REDACTED],

On August 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 2016 notice of eligibility determination and March 5, 2016 enrollment 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.

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## Decision

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NY State of Health Account ID: [REDACTED]  
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## Issues

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

Can the NY State of Health (NYSOH) Appeals Unit consider your appeal regarding the purported cancellation of your son's enrollment in WellCare, as his Child Health Plus plan, effective February 29, 2016, because of non-payment of premiums?

Did the NYSOH properly determine that your son's enrollment in Fidelis Care, as Child Health Plus plan, was effective April 1, 2016?

## Procedural History

On July 4, 2014, NYSOH issued a notice of eligibility determination stating that your son was eligible to enroll in a Child Health Plus plan at full cost, and that his coverage could begin as soon as you selected a plan and paid the premium.

On July 6, 2014, NYSOH issued a notice confirming that your son had been enrolled in a plan, and that if you paid the first month's premium his coverage would start as early as August 1, 2014.

There was no further activity in your NYSOH account until March 3, 2016, when you updated your application for insurance.

On March 4, 2016, NYSOH issued a notice of eligibility determination, based on your third March 3, 2016 application, stating that your son was eligible to enroll in Child Health Plus (CHP) at full cost, effective April 1, 2016.

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Also on March 4, 2016, NYSOH issued a notice of enrollment based on your plan selection on March 3, 2015, stating that your son was enrolled in WellCare as his CHP plan, and that this enrollment in the plan would start April 1, 2016.

Finally, on March 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your son's CHP plan insofar as it did not begin March 1, 2016.

On March 5, 2016, NYSOH issued a cancellation notice confirming your request to cancel your son's CHP coverage with WellCare on March 4, 2016. The notice stated that your son would not have coverage with WellCare effective April 1, 2016.

Also on March 5, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 4, 2015, stating that your son was enrolled in Fidelis Care as his CHP plan, and that this enrollment in the plan would start April 1, 2016.

On August 16, 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 that you are appealing only your son's eligibility.
- 2) You stated that your son had been enrolled with WellCare as his CHP plan since August 1, 2014.
- 3) You testified that WellCare had terminated your son's coverage effective February 29, 2016 for non-payment of premiums.
- 4) You testified that while you typically paid your son's CHP premiums two months at a time, you had some trouble making the payments on a timely basis. You further testified that you paid the premium due for March 2016 a couple of days late.
- 5) There is no evidence in your NYSOH account to show that your son was disenrolled from coverage. His initial enrollment indicated that his coverage would be effective from August 1, 2014 to July 31, 2015.
- 6) According to your account, this coverage was "closed" effective August 1, 2014, because "system requested cancellation." No notices were issued to

you by NYSOH regarding the termination of coverage, nor was any notice issued explaining why your son's coverage ended.

- 7) There is no indication that this coverage was renewed through NYSOH, and no documentation of any reenrollment in coverage until the April 1, 2016 effective date of your son's coverage in a new CHP plan.
- 8) According to notes in your account, your son was enrolled in CHP coverage directly through the plan, but it lapsed in March 2016.
- 9) You testified, and the record reflects, that you submitted a revised application to NYSOH for financial assistance on March 3, 2016 once you learned your son had been disenrolled from his CHP coverage with WellCare.
- 10) The record reflects that you initially reenrolled your son in CHP coverage with WellCare on March 3, 2016; however, you immediately disenrolled him from that plan in favor of a CHP plan issued by Fidelis Care.
- 11) You testified, and the record reflects, that you enrolled your son into Fidelis Care as his CHP plan on March 4, 2016.
- 12) You testified that you need your son's CHP plan with Fidelis Care to begin on April 1, 2016 because you had incurred some out-of-pocket medical expenses in connection with your son's care during March 2016.

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 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

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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.

### Appealable Issues

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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

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)).

### 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).

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## Legal Analysis

The first issue under review is whether NYSOH Appeals Unit can consider your appeal regarding the cancellation of your son's enrollment in WellCare, as his Child Health Plus plan, effective February 29, 2016 because of non-payment of premiums.

While there was no disenrollment notice issued to you in your NYSOH account, you credibly testified that WellCare had terminated your son's coverage effective February 29, 2016 for non-payment of premiums. You testified that you did not recall whether you were notified by a call or in writing from WellCare that your son's coverage had been discontinued as of February 29, 2016, but you conceded that you paid the premium due for March 2016 a couple of days late.

The NYSOH Appeals Unit only has the authority to review issues related to the following: (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) the denial of a request for a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of coverage due to non-payment of premiums, we would not be able reach the merits as to whether your son was properly terminated from his CHP plan with WellCare for non-payment of premiums. Moreover, it appears that your son's most recent coverage through the CHP plan was not established through NYSOH; instead, the coverage was arranged directly through the plan, and NYSOH would have no authority to make determinations on that enrollment.

Therefore, your appeal of your son's purported disenrollment from WellCare as of February 29, 2016 is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your son's enrollment in Fidelis Care, as his CHP plan, was effective April 1, 2016.

You testified that you contacted NYSOH on March 4, 2016 and enrolled your son into Fidelis Care as his CHP plan.

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.

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Therefore, the March 5, 2016 enrollment confirmation notice stating that your child's enrollment in Fidelis Care as his CHP plan was effective April 1, 2016, is correct and must be AFFIRMED.

## **Decision**

Your appeal of your son's disenrollment from WellCare as of February 29, 2016 for non-payment of premiums is DISMISSED as a non-appealable issue.

The March 5, 2016 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** October 18, 2016

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

The effective date of your son's coverage with Fidelis Care as his CHP plan is April 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):**

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## **Summary**

Your appeal of your son's disenrollment from WellCare as of February 29, 2016 for non-payment of premiums is **DISMISSED** as a non-appealable issue.

The March 5, 2016 notice of enrollment is **AFFIRMED**.

The effective date of your son's coverage with Fidelis Care as his CHP plan is April 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:**

