



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

## Notice of Decision

Decision Date: September 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007850

[REDACTED]

Dear [REDACTED],

On September 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2015 eligibility determination, December 16, 2015 disenrollment notice, February 6, 2016 eligibility determination and March 22, 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:

Did NY State of Health (NYSOH) properly determine that your youngest son was disenrolled from Medicaid effective December 31, 2015?

Did NYSOH properly determine that your youngest son's enrollment in his Child Health Plus plan was effective May 1, 2016?

## Procedural History

On March 18, 2015, NYSOH issued a notice of eligibility determination stating that your youngest son was eligible for Medicaid because your household income of \$48,000.00 was at or below the allowable income limit. This eligibility was effective as of March 1, 2015.

On March 18, 2015 NYSOH issued a notice of enrollment stating that your youngest son was enrolled in a Medicaid Managed Care plan as of March 1, 2015.

On October 25, 2015 NYSOH issued a renewal notice indicating that based on federal and state sources a decision could not be made about whether you and your family qualify for financial help paying for health coverage. The renewal notice requested that you update your NYSOH account by December 15, 2015.

On December 15, 2015, NYSOH received your updated application for health insurance.

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On December 16, 2015, NYSOH issued a disenrollment notice indicating that your youngest son was disenrolled from his Medicaid Managed Care plan effective December 31, 2015.

On December 16, 2015, NYSOH issued a notice indicating the information you provided did not match state and federal data sources and an eligibility determination for your youngest son could not be issued until you provided additional information. This same notice requested that you provide income documentation for your household by December 31, 2015.

On January 28, 2016, NYSOH issued a notice indicating that additional information was required to confirm your youngest son's eligibility for health insurance through NYSOH. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income was requested by February 12, 2016.

On January 29, 2016, February 5, 2016, March 4, 2016, March 9, 2016, and March 10, 2016, income documentation was uploaded to your account.

On February 9, 2016 NYSOH issued a notice indicating that additional information was required to confirm your youngest son's eligibility for health insurance through NYSOH. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income was requested.

On March 1, 2016 NYSOH issued a notice indicating that additional information was required to confirm your youngest son's eligibility for health insurance through NYSOH. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income was requested.

On March 10, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your youngest son was without coverage from January 1, 2016 until May 1, 2016.

On March 11, 2016 NYSOH issued an eligibility determination stating that your youngest son was eligible to enroll in a Child Health Plus plan effective April 1, 2016.

On March 21, 2016 you contacted NYSOH and enrolled your youngest son in a Child Health Plus plan.

On September 9, 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 supports the following findings of fact:

- 1) Your youngest son was found eligible for Medicaid effective March 1, 2015.
- 2) You testified that you expect to file your 2016 federal income tax return as married filing jointly, and claim two dependents.
- 3) According to the December 15, 2015 application, you attested to an expected annual household income of \$49,440.00.
- 4) On January 29, 2016, February 5, 2016, March 4, 2016, March 9, 2016 and March 10, 2016 income documentation was uploaded to your account.
- 5) You testified that your youngest son was not incarcerated in 2016, and did not move in 2016.
- 6) On February 5, 2016, you contacted NYSOH and updated your account. Your expected annual household income remained at \$49,440.00
- 7) You testified that your youngest son became eligible for insurance through your employer approximately March 28, 2016.
- 8) The record reflects that you enrolled your youngest son into a Child Health Plus plan on March 21, 2016.

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

## **Applicable Law and Regulations**

### Medicaid

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income

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that falls at or below 223% of the FPL for the applicable family size. (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income below 400% of the federal poverty level (FPL) for the applicable household size (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your first application for your two youngest children, that was the 2016 FPL, which was \$24,300.00 for a four-person household (80 Federal Register 3236, 3237).

"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, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child may be enrolled presumptively for two months while the missing documentation is collected (see e.g. 42 CFR § 457.355, SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

## Legal Analysis

The first issue under review is whether your youngest son was properly disenrolled from Medicaid, effective December 31, 2015.

On March 18, 2015, NYSOH issued an eligibility determination notice stating that your son was eligible for Medicaid effective March 1, 2015. That determination has not been appealed and is not under review here.

On October 25, 2015 NYSOH issued a renewal notice requesting that you update your NYSOH account so that eligibility for yourself, your spouse, and your two sons could be determined.

On December 15, 2015 you updated your NYSOH account and indicated that your anticipated family income for 2016 was \$49,440.00. As the income you provided did not match what NYSOH obtained from state and federal data sources, an eligibility determination could not be made with regard to your youngest son's eligibility until income documentation was provided. As a result, your youngest son was disenrolled from Medicaid effective December 31, 2015.

However, under New York State law, once a newborn is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 223% of the FPL. This provision is called "continuous coverage."

The record reflects that there were no events that would have been a basis for your youngest son's Medicaid coverage to have been terminated, such as a permanent move or incarceration. Since your son was determined eligible for Medicaid based on the application submitted on March 17, 2015, your son remains eligible for Medicaid for 12 continuous months, regardless of any increases in your household income. As a result, your son was improperly disenrolled from Medicaid effective December 31, 2015.

Since NYSOH determined your youngest son was eligible for Medicaid as of March 1, 2015, and therefore eligible for continuous coverage, the December 16, 2015 eligibility determination is RESCINDED because it states your son is not eligible for Medicaid.

The December 16, 2015 disenrollment notice is MODIFIED to state that your son's enrollment in his Medicaid Managed Care plan is terminated effective February 29, 2016 in order to provide him coverage until the end of his 12 month continuous coverage period.

Your case is RETURNED to NYSOH to reinstate your son into his Medicaid Managed Care plan for January and February 2016.

The second issue is whether NYSOH properly determined that your youngest son's enrollment in his Child Health Plus plan was effective May 1, 2015.

According to the record, you expect to file your federal income tax return with a status of married filing jointly and you will claim two dependents. Therefore, your youngest son is in a four-person household.

On your February 5, 2016 application, you attested to an expected household income of \$49,440.00.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). On the date of your application, the relevant FPL was \$24,300.00 for a four-person household. Since the submitted household income on that application of \$49,440.00 is 203.46% of the 2016 FPL, your youngest son would have an income below 400% of the FPL based on the information contained in your February 5, 2016 NYSOH application.

However, instead of issuing an eligibility determination for your youngest son based on your application, NYSOH issued a notice stating that his eligibility could not be determined and that more information regarding the household's income was needed. The record indicates that you submitted documentation of your household's income on January 29, 2016, February 5, 2016, March 4, 2016, March 9, 2016 and March 10, 2016.

As a result of needing to submit income documentation, your youngest son was not determined eligible for Child Health Plus until March 10, 2016 and a plan was not selected for him until March 21, 2016.

The date on which a Child Health Plus plan can take effect generally 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.

However, the State of New York has elected to find a child presumptively eligible for Child Health Plus for two months from the date of their NYSOH application if the child appears eligible for coverage pending submission of documentation. Therefore, your son should have been found presumptively eligible for Child Health Plus as of the February 5, 2016 application and a plan could have been selected for them that day. If a plan had been selected on February 5, 2016, that plan would have taken effect on the first day of the next month, that is, on March 1, 2016.

Therefore, the February 6, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your youngest son is eligible to enroll in a Child Health Plus plan, and the March 22, 2016 notice of enrollment confirmation

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is MODIFIED to state that your youngest son's enrollment in his Child Health Plus plan is effective March 1, 2016.

In your testimony, you noted that your youngest child currently has coverage through your employer. NYSOH currently shows that your youngest child has coverage through NYSOH. If your child has other coverage, you must contact NYSOH to update your account.

## **Decision**

The December 16, 2015 eligibility determination is RESCINDED.

The December 16, 2015 disenrollment notice is MODIFIED to state that your son's enrollment in his Medicaid Managed Care plan is terminated effective February 29, 2016 in order to provide him coverage until the end of his 12 month continuous coverage period.

The February 6, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your youngest son is eligible to enroll in Child Health Plus plan.

The March 22, 2016 notice of enrollment confirmation is MODIFIED to state that your youngest son's enrollment in his Child Health Plus plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child into his Medicaid Managed Care plan for the months of January and February 2016 and to enroll your child into his Child Health Plus plan, effective March 1, 2016.

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

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

Your youngest son's Medicaid coverage, which began on March 1, 2015, continued until February 29, 2016.

Your youngest son's eligibility for enrollment in his Child Health Plus plan should have been effective as of March 1, 2016.

In your testimony you noted that your youngest son currently has coverage through your employer. NYSOH currently shows that your youngest child has coverage through NYSOH. If your child has other coverage, you must contact NYSOH to update your account.

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

## **Summary**

The December 16, 2015 eligibility determination is RESCINDED. .

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The December 16, 2016 disenrollment notice is MODIFIED to state that your son's enrollment in his Medicaid Managed Care plan is terminated effective February 29, 2016 in order to provide him coverage until the end of his 12 month continuous coverage period.

The February 6, 2016 notice of eligibility determination is MODIFIED to state that, effective March 1, 2016, your youngest son is eligible to enroll in Child Health Plus plan.

The March 22, 2016 notice of enrollment confirmation is MODIFIED to state that your youngest son's enrollment in his Child Health Plus plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child into his Medicaid Managed Care plan for the months of January and February 2016 and to enroll your child into his Child Health Plus plan, effective March 1, 2016  
Your youngest son's Medicaid coverage, which began on March 1, 2015, continued until February 29, 2016.

Your youngest son's eligibility for enrollment in his Child Health Plus plan should have been effective as of March 1, 2016.

In your testimony you noted that your youngest son currently has coverage through your employer. NYSOH currently shows that your youngest child has coverage through NYSOH. If your child has other coverage, you must contact NYSOH to update your account.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

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

