



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

## Notice of Decision

Decision Date: September 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007959

[REDACTED]

Dear [REDACTED],

On September 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 eligibility determination notice and 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: September 12, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007959

[REDACTED]

## Issue

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

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

## Procedural History

On January 13, 2016, 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 qualify for financial help paying for their health coverage, and that you needed to update your account by February 15, 2016, or your children might lose the financial assistance they were currently receiving.

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

On February 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame.

On February 18, 2016, a disenrollment notice was issued terminating your children's Child Health Plus plan effective February 29, 2016.

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On March 14, 2016, NYSOH received your children's updated application for health insurance.

On March 15, 2016, NYSOH issued a notice of eligibility determination, based on your March 14, 2016, application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 and \$15.00 monthly premium, effective April 1, 2016.

Also on March 15, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 14, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on April 1, 2016.

On March 16, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin March 1, 2016.

On September 1, 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 shows your two children were enrolled with Child Health Plus from June 1, 2014, to February 29, 2016, when they were disenrolled for failure to update their application in your NYSOH account.
- 2) You testified, and the record reflects, that you previously received all of your notices from NYSOH by electronic mail. You have since changed this to regular U.S. Mail notices.
- 3) You testified that your e-mail address has remained the same, and your address was current with NYSOH's system at the time you were requested to update your application.
- 4) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your children's coverage for 2016.

- 5) You testified that you did not know that you needed to update your account until you had tried to fill a prescription for your one child but you were told he had no coverage.
- 6) The record reflects that on March 14, 2016, NYSOH received your children's updated application for health insurance.
- 7) You testified that you are seeking that your children be enrolled in their Child Health Plus plan as of March 1, 2016.
- 8) You testified you incurred medical expenses in the amount of approximately \$200.00 for your child for the month of 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, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, 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 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming 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)).

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

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

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

Your children were originally found eligible for Child Health Plus effective June 1, 2014, and were enrolled into a Child Health Plus plan.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's January 13, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016 or any such financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their Child Health Plus plan, effective February 29, 2016.

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However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account on behalf of your children. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your children's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your children's behalf.

During your telephone hearing you explained you were not aware that you needed to update your account until you had tried to fill a prescription for one of your children but you were told by the pharmacy he had no coverage.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on March 14, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the March 15, 2016 notice of eligibility redetermination is MODIFIED to state that, effective March 15, 2016, your children are eligible to enroll in Child Health Plus with a \$9.00 premium per month, and the March 15, 2016, notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above changes.

## **Decision**

The March 15, 2016, notice of eligibility redetermination is MODIFIED to state that, effective March 1, 2016, your children are eligible to enroll in Child Health Plus.

The March 15, 2016, notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

**Effective Date of this Decision:** September 12, 2016

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

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).

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of March 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.

### **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**

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The March 15, 2016, notice of eligibility redetermination is MODIFIED to state that, effective March 1, 2016, your children are eligible to enroll in Child Health Plus.

The March 15, 2016, notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective March 1, 2016.

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of 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:**

