



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

## Notice of Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007969

[REDACTED]

Dear [REDACTED],

On August 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 12, 2016 eligibility determination and disenrollment notices.

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 number 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.

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: September 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007969



## 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 son's eligibility for financial assistance and enrollment in a Child Health Plus plan ended effective March 31, 2016?

## Procedural History

On December 8, 2015, NY State of Health issued a notice of eligibility determination stating that your son was conditionally eligible to enroll in Child Health Plus with a \$60.00 per month premium, effective January 1, 2016. The notice further requested that you provide documentation confirming his citizenship status and Social Security Number before March 6, 2016.

Also on December 8, 2015, NY State of Health issued a notice confirming his enrollment in a Child Health Plus plan effective January 1, 2016.

On March 12, 2016, NY State of Health issued an eligibility determination notice stating that your son was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and Social Security Number within the required timeframe.

Also on March 12, 2016 NY State of Health issued a disenrollment notice stating that your son's enrollment in his Child Health Plus plan would end effective March 31, 2016.

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On March 16, 2016, information in your NY State of Health account was updated and your son was reenrolled into his Child Health Plus plan. That day, a preliminary eligibility determination was prepared stating that your son was eligible for Child Health Plus.

Also on March 16, 2016, you spoke to NY State of Health's Account Review Unit and appealed the March 12, 2016 eligibility determination and the March 12, 2016 disenrollment notices insofar as they ended your son's financial assistance eligibility and enrollment in Child Health Plus for the month of April 2016.

On March 17, 2016, NY State of Health issued a notice of eligibility determination stating that your son was eligible to enroll in Child Health Plus with a \$60.00 per month premium, effective May 1, 2016.

Also on March 17, 2016, NY State of Health issued a notice confirming his enrollment in a Child Health Plus plan effective May 1, 2016.

On August 29, 2016, you had a telephone hearing with a Hearing Officer from NY State of Health'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) You testified, and the record reflects, that between December 7, 2015 and June 10, 2016, you receive all from NY State of Health via electronic mail.
- 2) You testified you did not receive any electronic alerts in your main inbox stating your son's eligibility was only conditional and that you needed to provide documentation of his citizenship status and Social Security number.
- 3) The record indicates your son was added to your NY State of Health application on December 7, 2015. That application stated he was a United States Citizen and he did not have a Social Security Number because he needed to apply for one.
- 4) In the eligibility determination issued on December 8, 2015 a notice was issued stating your child's eligibility was only conditional, and that you needed to confirm his citizenship status and Social Security Number before March 6, 2016.

- 5) The record indicates that NY State of Health did not receive the requested citizenship documentation before the deadline.
- 6) You further testified that you did not know your son's health coverage was ending effective March 31, 2016 due to your failure to update your son's citizenship status. The record indicates that your NY State of Health account was updated on March 16, 2016 to include his Social Security Number. At that time, you were first informed there was an issue with your son's enrollment.
- 7) You testified that you are seeking reinstatement for your son into his Child Health Plus plan as of April 1, 2016 because he has medical bills for the month of April 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 - Generally

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

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

NY State of Health must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR §

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457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NY State of Health is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NY State of Health remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

### Electronic Notices

Applicants may choose to receive notices and information from NY State of Health by either electronic or regular mail. If the applicant elects to receive electronic notices, NY State of Health 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 NY State of Health properly determined that your son was no longer eligible to enroll in Child Health Plus through NY State of Health, effective March 31, 2016.

NY State of Health is required to determine whether children are eligible to enroll in coverage, and must confirm, among other things, that their Social Security Number and citizenship status is satisfactory.

If NY State of Health cannot verify a child's Social Security Number and citizenship status, it must provide notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

The record indicates that your son was added to your NY State of Health application on December 7, 2015. That application stated that he was a United States Citizen and that he did not have a Social Security Number because he needed to apply for one.

In the eligibility determination issued on December 8, 2015 you were advised your child's eligibility was only conditional, and that you needed to confirm his citizenship status and Social Security Number before March 6, 2016.

The record indicates that NY State of Health did not receive the requested citizenship documentation and Social Security Number before the deadline.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NY State of Health electronically during that time period. You credibly testified that you did not receive an electronic alert in your main inbox regarding the eligibility determination notice, which directed you that your child's eligibility was only conditional and that you needed to submit additional information. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation.

You further testified that you did not know your son's health coverage was ending effective March 31, 2016 due to your failure to update your son's citizenship status. The record indicates that your NY State of Health account was updated on March 16, 2016 to include his Social Security Number. At that time, you were first informed there was an issue with your son's enrollment.

Therefore, it is concluded that NY State of Health did not give you the proper notice that you needed to submit documentation of your child's Social Security Number and citizenship status.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NY State of Health account as it relates to your son's eligibility, the March 12, 2016 eligibility determination stating that he is no longer eligible for failure to submit documentation and the March 12, 2016 disenrollment notice ending his Child Health Plus plan as of March 31, 2016 are **RESCINDED**.

Your case is **RETURNED** to NY State of Health to reinstate your son's coverage in his Child Health Plus plan for the month of April 2016. You will be responsible for any unpaid premiums.

## **Decision**

The March 12, 2016 notice of eligibility determination is **RESCINDED**.

The March 12, 2016 notice of disenrollment is **RESCINDED**.

Your case is **RETURNED** to NY State of Health to reinstate your son's coverage in his Child Health Plus plan for the month of April 2016. You will be responsible for any unpaid premiums.

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**Effective Date of this Decision:** September 1, 2016

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

NY State of Health erred in disenrolling your son from his Child Health Plus plan effective March 31, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of April 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 after the date 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 date 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

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- By fax: 1-855-900-5557

## **Summary**

The March 12, 2016 notice of eligibility determination is RESCINDED.

The March 12, 2016 notice of disenrollment is RESCINDED.

NY State of Health erred in disenrolling your son from his Child Health Plus plan effective March 31, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of April 2016.

## **Legal Authority**

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

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

