



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

## Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008110

[REDACTED]

Dear [REDACTED],

On September 15, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 12, 2016 eligibility determination notice and disenrollment notice, and March 22, 2016 eligibility determination notice and notice of enrollment.

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) § 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: October 14, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008110

[REDACTED]

## Issue

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

Did NYSOH properly determine that the enrollment of your children in their Child Health Plus plan, at a total monthly cost of \$45.00, was effective May 1, 2016?

## Procedural History

On November 23, 2015, NYSOH issued an eligibility determination notice stating that each of your five children were conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 monthly premium, effective January 1, 2016. The notice also stated that their eligibility was conditional pending receipt of documentation to confirm your household income before January 16, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirming your selection of a CHP plan for your children's coverage as of November 18, 2015. The notice stated that their coverage would begin effective January 1, 2016. This notice also requested income documentation to confirm your household income before January 16, 2016.

On March 12, 2016, NYSOH issued an eligibility redetermination notice stating that your children were now eligible to enroll in a full price CHP plan or Child-Only qualified health plan (QHP), effective April 1, 2016. The notice also stated that your children no longer qualified for help paying for CHP coverage because NYSOH had not received income documents to confirm your children's eligibility.

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Also on March 12, 2016, NYSOH issue a disenrollment notice confirming that the CHP coverage of your children would end effective March 31, 2016. This was because your children were no longer eligible to remain enrolled in their current health coverage. You were advised to select a plan right away to ensure there would be no gap in their health insurance.

On March 21, 2016, NYSOH received five earnings statements issued to you by your employer, [REDACTED], between February 19, 2016 and March 18, 2016.

Also on March 21, 2016, NYSOH received a revised application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your children were each eligible to enroll in CHP for a cost of \$15.00 per month.

Finally on March 21, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan insofar as it did not begin April 1, 2016.

On March 22, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 21, 2016 application. The notice stated that your children were each eligible to enroll in CHP for a cost of \$15.00 per month, effective May 1, 2016.

Also on March 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 21, 2016, stating that your children were enrolled in a CHP plan, and that this enrollment in the plan would start May 1, 2016.

On September 15, 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 children's eligibility.
- 2) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to provide additional income documentation by January 16, 2016 in order to confirm your children's eligibility for financial assistance to enroll in CHP at a reduced cost.

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- 4) You testified that you did not know that you needed to update your account until you had reviewed the March 12, 2016 disenrollment notice.
- 5) The record reflects that on March 21, 2016 NYSOH received your children's updated application for health insurance, as well as 5 earnings statements issued to you by your employer, [REDACTED], between February 19, 2016 and March 18, 2016.
- 6) You testified that you are seeking that your children be enrolled in their CHP plan at a monthly rate of \$15.00 as of 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).

## 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 CHP plan at \$15.00 per month was effective May 1, 2016, rather than April 1, 2016.

Each of your children were originally found conditionally eligible for CHP at a premium of \$15.00 per month, effective January 1, 2016. Their eligibility was conditional pending receipt by NYSOH of income documents to confirm their eligibility before January 16, 2016.

Because the record reflects that you did not provide the requested documentation prior to January 16, 2016, your children were terminated from their CHP plan, effective March 31, 2016.

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 November 23, 2015 eligibility determination notice or November 25, 2015 notice of enrollment 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, or that any notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account and/or provide income documentation before January 16, 2016 to complete your application on your children's behalf.

Therefore, the March 12, 2016 eligibility determination notice and disenrollment notice are hereby **RESCINDED**.

Furthermore, the March 22, 2016 notice of eligibility redetermination is **MODIFIED** to state that, effective April 1, 2016, your children are each eligible to enroll in CHP with a \$15.00 premium per month, and the March 22, 2016 notice of enrollment is **MODIFIED** to state that your children's enrollment in their CHP plan is effective April 1, 2016.

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

## **Decision**

The March 12, 2016 eligibility determination notice is RESCINDED.

The March 12, 2016 disenrollment notice is RESCINDED.

The March 22, 2016 eligibility determination notice is MODIFIED to state that, effective April 1, 2016, your children are each eligible to enroll in CHP with a \$15.00 premium per month.

The March 22, 2016 notice of enrollment is MODIFIED to state that your children's enrollment in their CHP plan is effective April 1, 2016.

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

**Effective Date of this Decision:** October 14, 2016

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

Your children's eligibility for and enrollment in their CHP plan at \$15.00 per month each should have been effective as of April 1, 2016.

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

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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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 12, 2016 eligibility determination notice is RESCINDED.

The March 12, 2016 disenrollment notice is RESCINDED.

The March 22, 2016 eligibility determination notice is MODIFIED to state that, effective April 1, 2016, your children are each eligible to enroll in CHP with a \$15.00 premium per month.

The March 22, 2016 notice of enrollment is MODIFIED to state that your children's enrollment in their CHP plan is effective April 1, 2016.

Your children's eligibility for and enrollment in their CHP plan at \$15.00 per month each should have been effective as of April 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of April 1, 2016.

### **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:**

