



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

## Notice of Decision

Decision Date: October 7, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000008139

[REDACTED]

Dear [REDACTED],

On September 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 4, 2016 and March 19, 2016 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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 7, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000008139



## Issue

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

Did the Marketplace properly determine that your eldest child's coverage through Child Health Plus ended on January 31, 2016 and again on April 30, 2016 resulting on gaps in coverage from February 1, 2016 through March 31, 2016 and May 1, 2016 through June 30, 2016 respectively?

## Procedural History

On September 9, 2015, NY State of Health (NYSOH) received your household's updated application for health insurance.

On September 10, 2015, NYSOH issued notices of eligibility redetermination and enrollment that in respective part stated your eldest child (child) was eligible to enroll in Child Health plus with a monthly premium of \$9.00, effective October 1, 2015, and the plan you selected for her, CDPHP, would begin October 1, 2015.

On several occasions between September 10, 2015 and January 3, 2016, you updated your household's application four times and changed your household's income from \$41,292.16 on September 10, 2015, to \$35,676.16 as of your January 15, 2016 updated application.

On January 4, 2016, NYSOH issued a notice informing you that only your child's eligibility for financial assistance through NYSOH could not be determined and that you needed to update your household's income by January 30, 2016.

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Also on January 4, 2016, NYSOH issued a disenrollment notice that stated your child's coverage in her Child Health Plus plan would end January 31, 2016.

Also on January 4, 2016, NYSOH issued an eligibility redetermination notice that stated the rest of the household members were no longer eligible for Medicaid, but their coverage would continue for 12 months until their respective anniversary renewal dates.

On January 15, 2016, your NYSOH application was updated and your household's income was listed as \$35,676.16.

On January 16, 2016, NYSOH issued a notice informing you that only your child's eligibility for financial assistance through NYSOH could not be determined and that you needed to update your household's income by January 31, 2016, so that the income you reported on your updated application could be confirmed.

Also on January 16, 2016, NYSOH issued an eligibility redetermination notice regarding the rest of your household that contained the same information as stated in the January 4, 2016 eligibility redetermination notice.

On March 1, 2016, based on your February 1, 2016 updated application in which you listed a household income of \$37,447.80, NYSOH issued an eligibility redetermination notice that in part stated your child was redetermined eligible for Child Health Plus, effective April 1, 2016.

Also on March 1, 2016, NYSOH issued an enrollment notice confirming in part that your child was re-enrolled in a CDPHP Child Health plus plan, effective April 1, 2016.

On March 11, 2016, NYSOH issued a notice informing you that it was time to renew health insurance coverage for your household and that you needed to update the income information on your NYSOH account by April 15, 2016, or risk losing your current coverages.

On March 19, 2016, based on your updated NYSOH account in which you reported a household income of \$37,447.80, NYSOH issued an eligibility redetermination notice that in part stated your child was eligible to enroll in Child Health Plus at no cost, effective May 1, 2016.

That same day, a disenrollment notice was issued by NYSOH that in part stated your child's Child Health Plus plan would end effective April 30, 2016.

Also on March 19, 2016, NYSOH issued an enrollment notice confirming that your child's Child Health Plus plan at no cost would begin May 1, 2016.

On March 21, 2016, you spoke to the Marketplace's Account Review Unit and appealed the gap in coverage your child experienced from her disenrollment from her Child Health Plus plan as of January 31, 2016 and reenrollment thereafter on April 1, 2016.

On March 22, 2016 and April 6, 2016, based on your March 21, 2016 and April 5, 2016 updated applications, NYSOH issued an eligibility redetermination notice that in part stated your child was conditionally eligible for Child Health Plus, effective May 1, 2016, and that you needed to confirm your household's income by May 20, 2016, and June 4, 2016 respectively, for her eligibility to continue.

On April 21, 2016, NYSOH issued a notice informing you that only your child's eligibility for financial assistance through NYSOH could not be determined and that you needed to update your household's income by May 6, 2016, so that the income you reported on your updated application could be confirmed.

On April 21, 2016, NYSOH also issued a cancellation notice that stated your child's Child Health Plus coverage with CDPHP would end April 30, 2016.

On April 29, 2016, NYSOH issued another notice informing you that only your child's eligibility for financial assistance through NYSOH could not be determined and that you needed to update your household's income by May 14, 2016, so that the income you reported on your updated application could be confirmed.

On May 20, 2016 and May 21, 2016, NYSOH issued eligibility redetermination notices that in part stated your child was eligible to enroll in Child Health Plus without condition, effective July 1, 2016, with a \$9.00 monthly premium.

Also on May 20, 2016 and May 21, 2016, NYSOH issued enrollment notices confirming that your child was enrolled in a Child Health Plus plan with CDPHP, effective July 1, 2016.

Lastly, on July 6, 2016, NYSOH issued an eligibility redetermination notice confirming in part that your child was enrolled in a Child Health Plus plan with CDPHP as of July 1, 2016.

On September 19, 2016, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At the hearing, the Hearing Officer allowed you to expand your appeal request to include the second period in which your child had a gap in health insurance coverage. 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:

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- 1) According to your NYSOH account and your testimony, you are appealing only your child's eligibility for and disenrollments from Child Health Plus.
- 2) According to your NYSOH account and your testimony, on or about September 10, 2015, you enrolled your child in a Child Health Plus plan through NYSOH with an enrollment start date of October 1, 2015. There was no condition on your child's eligibility to enroll in Child Health Plus at that time.
- 3) You testified that you paid the first premium for her insurance and coverage began as of October 1, 2015. You further testified that at all times relevant you have consistently paid all of your child's premiums on time.
- 4) You testified that your household income fluctuated from September 2015 through March 2016, and that you reported the changes in income each time that your spouse changed jobs and/or your household income increased or decreased.
- 5) According to your NYSOH account, changes in your household income were reported eight times for the period of September 10, 2015 until May 20, 2016, when you last reported an annual household income of \$41,749.60. Your household income in this amount was verified by NYSOH on July 5, 2016.
- 6) According to your NYSOH account and your testimony, your child was disenrolled from her Child Health Plus plan, effective January 31, 2016 and re-enrolled as of April 1, 2016, resulting in a gap in health insurance coverage for the period of February 1, 2016 through March 31, 2016.
- 7) According to your NYSOH account and your testimony, your child was again disenrolled as of April 30, 2016 and re-enrolled as of July 1, 2016, resulting in a gap in health insurance coverage for the period of May 1, 2016 through June 30, 2016.
- 8) You testified that you incurred hospital, ambulance, and medication expenses related to your child during these two gaps in coverage and are seeking to have your child's coverage reinstated during those gaps so the expenses are covered.
- 9) According to your NYSOH account, your family resided in Albany County, New York at all times relevant.
- 10) According to your NYSOH, your child's Child Health Plus was not cancelled due to nonpayment of premium, or because she moved out of

New York, no longer had a valid Social Security number, or became Medicaid eligible.

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

## **Applicable Law and Regulations**

### 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 at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

The “period of eligibility” for CHP 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 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 [PHL] § 2510(6)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child’s enrollment in her Child Health Plus (CHP) ended effective January 31, 2016 to and again on May 1, 2016 resulting in two two-month gaps in her coverage.

On September 10, 2015, NYSOH issued a notice of eligibility determination for an application submitted for your child on September 9, 2015. It stated that, effective October, your child could enroll through CHP without condition and with a premium of \$9.00 per month. That eligibility determination has not been appealed and is not under review here. The enrollment notice confirmed she was enrolled in a Child Health Plus plan, effective October 1, 2015.

Since the period of your child’s CHP eligibility began on October 1, 2016, it continues until September 30, 2016, unless an event occurs to disqualify them from CHP eligibility. The record does not indicate that any CHP premiums were not timely paid, that your child has gained access to or obtained other health insurance, or that your child have become eligible for Medicaid. The record does confirm that she still resides in New York State.

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When additional determinations were made after September 10, 2015, based on your updated applications, the twelve-month period of CHP eligibility that began on October 1, 2015 had not expired, and no event had occurred to end that eligibility. According to the credible evidence of record, your child's CHP coverage should not have ended effective January 31, 2016 and May 31, 2016.

To bring the Marketplace's decisions into line with the record as currently developed, the following changes are made:

The January 4, 2016 disenrollment notice stating that your child's CHP coverage would end effective January 31, 2016 is RESCINDED.

The March 19, 2016 disenrollment notice stating that your child's CHP coverage would end effective April 30, 2016 is RESCINDED.

The April 21, 2016 cancellation notice stating that your child's Child Health Plus coverage would end effective April 30, 2016 is RESCINDED.

The May 21, 2016 notices of eligibility redetermination and enrollment confirmation stating that your child is eligible for Child Health Plus and enrolled in Child Health Plus with CDPHP, effective July 1, 2016 will not be disturbed.

Your case is RETURNED to NYSOH to ensure that your child's coverage in her CDPHP Child Health Plus plan is restored for the periods of February 1, 2016 through March 31, 2016 and May 1, 2016 through June 30, 2016, and to notify you accordingly.

## **Decision**

The January 4, 2016 disenrollment notice stating that your child's CHP coverage would end effective January 31, 2016 is RESCINDED.

The March 19, 2016 disenrollment notice stating that your child's CHP coverage would end effective April 30, 2016 is RESCINDED.

The April 21, 2016 cancellation notice stating that your child's Child Health Plus coverage would end effective April 30, 2016 is RESCINDED.

The May 21, 2016 notices of eligibility redetermination and enrollment confirmation stating that your child is eligible for Child Health Plus and enrolled in Child Health Plus with CDPHP, effective July 1, 2016 will not be disturbed.

Your case is RETURNED to NYSOH to ensure that your child's coverage in her CDPHP Child Health Plus plan is restored for the periods of February 1, 2016

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through March 31, 2016 and May 1, 2016 through June 30, 2016, and to notify you accordingly.

**Effective Date of this Decision:** October 7, 2016

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

The effective date of your child's Child Health Plus plan with CDPHP is October 1, 2016. This coverage continued through June 30, 2016 without interruption and resumed for a new policy period of July 1, 2016 through June 30, 2017, unless one of the events noted above occurs.

Your case is being sent back to NYSOH to ensure your child's coverage in her Child Health Plus plan is restored during the two periods in which there was a gap in her coverage.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the months in which your child experienced gaps in coverage.

### **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.

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## **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 January 4, 2016 disenrollment notice stating that your child's CHP coverage would end effective January 31, 2016 is **RESCINDED**.

The March 19, 2016 disenrollment notice stating that your child's CHP coverage would end effective April 30, 2016 is **RESCINDED**.

The April 21, 2016 cancellation notice stating that your child's Child Health Plus coverage would end effective April 30, 2016 is **RESCINDED**.

The May 21, 2016 notices of eligibility redetermination and enrollment confirmation stating that your child is eligible for Child Health Plus and enrolled in Child Health Plus with CDPHP, effective July 1, 2016 will not be disturbed.

Your case is **RETURNED** to NYSOH to ensure that your child's coverage in her CDPHP Child Health Plus plan is restored for the periods of February 1, 2016 through March 31, 2016 and May 1, 2016 through June 30, 2016, and to notify you accordingly.

The effective date of your child's Child Health Plus plan with CDPHP is October 1, 2016. This coverage continued through June 30, 2016 without interruption and resumed for a new policy period of July 1, 2016 through June 30, 2017, unless one of the events noted above occurs.

Your case is being sent back to NYSOH to ensure your child's coverage in her Child Health Plus plan is restored during the two periods in which there was a gap in her coverage.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the months in which your child experienced gaps in coverage.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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

