



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

## Notice of Decision

Decision Date: October 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008203

[REDACTED]

Dear [REDACTED],

On September 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 22, 2016 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 (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 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008203

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your child's enrollment in her Child Health Plus plan was terminated effective February 29, 2016 for non-payment of premium?

Did the NY State of Health properly determine that your child's enrollment in her Child Health Plus plan was effective May 1, 2016?

## Procedural History

On November 17, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination that in relevant part stated your child was still eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective January 1, 2016.

On December 18, 2015, NYSOH issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan with a start date of January 1, 2016.

On March 17, 2016, a disenrollment notice was issued by NYSOH terminating coverage for your child's Child Health Plus plan, effective February 29, 2016. The reason stated was because premium payments had not been received by the health plan within the required time frame to maintain coverage.

On March 21, 2016, you updated your NYSOH account.

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On March 22, 2016, NYSOH issued a notice of eligibility determination, based on your March 21, 2016 updated application, stating in relevant part that your child was eligible to enroll in Child Health Plus, with a \$15.00 monthly premium, effective May 1, 2016.

Also on March 22, 2016, NYSOH issued an enrollment notice, based on your plan selection on March 21, 2016, confirming your child's enrollment in a Child Health Plus plan with a start date of May 1, 2016.

On March 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the March 17, 2016 disenrollment notice and the March 22, 2016 enrollment notice, insofar as your child's coverage ended on February 29, 2016 and did not begin again until May 1, 2016, resulting in a two month gap in health insurance coverage.

On September 23, 2016, you and your spouse 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 your child's Child Health Plus coverage start date of May 1, 2016 and want the coverage backdated to March 1, 2016.
- 2) The record reflects that your child was disenrolled from her Child Health Plus plan effective February 29, 2016 because the Child Health Plus plan had not timely received a monthly premium payment from you.
- 3) You submitted an updated application to NYSOH for financial assistance on March 21, 2016.
- 4) According to your NYSOH account and your testimony, you re-enrolled your child into a Child Health Plus plan on March 21, 2016 with an effective start date of May 1, 2016.
- 5) You testified that you were not aware that your child was disenrolled from her coverage until March 21, 2016, when you took her to the hospital and were told at check in by an admittance clerk that there was no health insurance coverage.
- 6) You testified no one told you there was a problem with your monthly premium payment not being made to the Child Health Plus plan. It was not

until you contacted the health plan immediately after March 21, 2016 and were told there was a problem with the monthly premium payment you had made by credit card.

- 7) You denied receiving the March 17, 2016 disenrollment notice prior to taking your child to the hospital on March 21, 2016.
- 8) You testified that you need your child's Child Health Plus plan to begin on March 1, 2016 because of outstanding medical bills for March 2016 and April 2016.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

### 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

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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).

## **Legal Analysis**

The first issue is whether NYSOH properly determine that your child's enrollment in her Child Health Plus plan was terminated effective February 29, 2016 for non-payment of premium.

The record indicates that on December 18, 2015, your child was re-enrolled in a Child Health Plus plan through NYSOH. Her coverage under this plan was effective January 1, 2016. The Child Health Plus plan had premium payments due of \$15.00 per month.

The record reflects that, on March 17, 2016, NYSOH issued a disenrollment notice regarding your child's Child Health Plus coverage for non-payment of premium with coverage terminating effective February 29, 2016.

You requested an appeal to dispute in part your child's disenrollment from her Child Health Plus plan coverage for non-payment of premium. You testified you were making premium payments by credit card and were unaware that there was an issue with a payment being made and properly applied to your child's account. You testified that you became aware that there was a premium payment issue on March 21, 2016, when you took your child to the hospital and were told by the admittance clerk that there was no insurance coverage for your child.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit does not have the authority to review termination of enrollment due to nonpayment of premiums as it is a contractual issue between the insured and the insurer, we cannot reach the merits as to whether your child was properly terminated from her Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the March 17, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

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The remaining issue under review is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan was next effective May 1, 2016.

You testified, and the record reflects, that you contacted NYSOH on March 21, 2016 and re-enrolled your child into a Child Health Plus plan on that date.

The date on which a Child Health Plus plan can take effect 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. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the March 22, 2016 enrollment notice confirming your child's enrollment in her Child Health Plus plan was effective May 1, 2016, is correct and must be AFFIRMED.

## **Decision**

Your appeal of the March 17, 2016 disenrollment notice is DISMISSED.

The March 22, 2016 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** October 28, 2016

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

This decision does not change your child's eligibility.

Effective February 29, 2016, your child was disenrolled from her Child Health Plus plan due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

The effective date of your child's Child Health Plus plan is May 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.

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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**

Your appeal of the March 17, 2016 disenrollment notice is **DISMISSED**.

The March 22, 2016 enrollment notice is **AFFIRMED**.

This decision does not change your child's eligibility.

Effective February 29, 2016, your child was disenrolled from her Child Health Plus plan due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

The effective date of your child's Child Health Plus plan is May 1, 2016.

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## **Legal Authority**

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

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

