



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

## Notice of Decision

Decision Date: October 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008316

[REDACTED]

Dear [REDACTED]

On September 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 21, 2015 eligibility determination and the January 26, 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 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 3, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008316



## Issue

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

Did NY State of Health properly disenroll your children from their Child Health Plus plan effective December 31, 2015, and as a result were not re-enrolled until March 1, 2016, resulting in a gap in coverage during the months of January and February, 2016?

## Procedural History

On December 17, 2014, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your December 16, 2014 application, stating that your children were eligible for Child Health Plus effective January 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On October 24, 2015, NYSOH issued a notice 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 December 15, 2015, or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, 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

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because you had not responded to the renewal notice and had not completed your children's renewal within the required time frame. Your children's eligibility ended December 31, 2015.

On January 25, 2016, NYSOH received your children's updated application for health insurance.

On January 26, 2016, NYSOH issued a notice of eligibility determination, based on your January 25, 2016, application, stating that your children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, effective March 1, 2016.

Also on January 26, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 25, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on March 1, 2016.

On March 25, 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 January 1, 2016.

On September 27, 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, and the record reflects, that you had received all of your notices from NYSOH by electronic mail prior to your discovery that you had missed your renewal notice in January, 2016. Then you switched to receiving communication by regular U.S. Mail.
- 2) You testified that you did not receive a renewal notice telling you that you needed to update your application in order to renew your children's coverage for 2016.
- 3) You testified that you realized you needed to update your children's application for health insurance when in late January, 2016, you had to bring your daughter to the hospital.
- 4) The record reflects that on January 25, 2016, NYSOH received your children's updated application for health insurance.

- 5) You testified that you are seeking that your children be enrolled in their Child Health Plus plan as of January 1, 2016.
- 6) You testified that you incurred medical bills in the months your children were without coverage in the amount of approximately \$5,761.00, after your child had to go to the emergency room, and receive X-rays for [REDACTED] as well as other regularly scheduled visits to the doctor.
- 7) You testified you paid premium payments to your Child Health Plus Plan for the months of January and February 2016, but were told your children could not receive coverage for those months, or a backdate in coverage from NYSOH.

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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).

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents

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needed to verify eligibility. Children may be enrolled presumptively for two months while the missing documentation is collected (see e.g. 42 CFR § 457.355; SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH's request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children were disenrolled from their Child Health Plus plan effective December 31, 2015, and were not re-enrolled until March 1, 2016, resulting in a gap in coverage during the months of January, and February 2016.

Your children were originally found eligible for Child Health Plus and enrolled effective January 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve months without requiring information from the individual if 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 October 25, 2015, renewal notice stated that there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or their financial assistance might end.

You testified that you did not receive a renewal notice telling you that you needed to update your application in order to renew your children's coverage and as a result you did not submit an updated application prior to December 15, 2015.

The record indicates that your children were then disenrolled from their Child Health Plus plan because you did not respond to the renewal notice. Your children's eligibility and enrollment subsequently ended on December 31, 2015.

However, under the presumptive eligibility rule, your children should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning January 1, 2016. This is because when a child or

children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation and recertify.

Since the end date of the previous 12 month policy period of your children's eligibility for and enrollment in Child Health Plus ended December 31, 2015, your children should have been determined presumptively eligible from January 1, 2016, through February 29, 2016, so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you that time to submit sufficient information to have their eligibility redetermined.

Therefore due to the facts provided during your testimony and based on the record, the December 21, 2015, eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The January 26, 2016, enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of January 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the months of January and February 2016.

## **Decision**

The December 21, 2015 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The January 26, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of January 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the months of January and February 2016.

**Effective Date of this Decision:** October 3, 2016

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

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Your children should have been given two months of Child Health Plus presumptive eligibility effective January 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of January, and February, 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:  
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- By fax: 1-855-900-5557

### **Summary**

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The December 21, 2016, eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The January 26, 2016, enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of January 1, 2016.

Your children should have been given two months of Child Health Plus presumptive eligibility effective January 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of January and February 2016.

### **Legal Authority**

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

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

