



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

## Notice of Decision

Decision Date: November 08, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008371

[REDACTED]

Dear [REDACTED],

On September 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 17, 2016 and the March 23, 2016 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 Account ID at the top of this notice.

### Legal Authority

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).

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

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

## Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008371



## Issue

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

Did NY State of Health (NYSOH) properly determine that your daughter was disenrolled from her Child Health Plus plan effective March 31, 2016 and was not re-enrolled until May 1, 2016, resulting in a gap in coverage during the month of April 2016?

If your daughter should have been found eligible to enroll in her Child Health Plus plan effective April 1, 2016, can NYSOH Appeals Unit consider your appeal to seek reimbursement from your qualified health plan for premium amounts paid to enroll your daughter in unsubsidized Child-Only qualified health plan coverage outside of NYSOH during the month of April 2016?

## Procedural History

On February 23, 2015, NYSOH prepared a preliminary eligibility determination, based on your February 23, 2015 application, stating that your daughter was eligible for Child Health Plus (CHP) effective April 1, 2016. Your daughter was subsequently enrolled in a Child Health Plus plan. No written eligibility determination notice was issued formalizing the finding of the February 23, 2015 preliminary eligibility determination.

On February 7, 2016, NYSOH issued a notice that it was time to renew your daughter's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether

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your daughter would qualify for financial help paying for her health coverage, and that you needed to update your account by March 15, 2016 or your daughter might lose the financial assistance she was currently receiving.

No updates were made to your account by March 15, 2016.

On March 17, 2016, NYSOH issued an eligibility determination notice stating that your daughter was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your daughter also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your daughter's renewal within the required time frame. Your daughter's eligibility ended March 31, 2016.

On March 22, 2016, NYSOH received your daughter's updated application for health insurance.

On March 23, 2016 NYSOH issued a notice of eligibility determination, based on your March 22, 2016 application, stating that your daughter was eligible to enroll in CHP with a \$30.00 monthly premium, effective May 1, 2016.

Also on March 23, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 22, 2016, stating that your daughter was enrolled in a CHP plan and that coverage would start on May 1, 2016

On March 28, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your daughter's CHP plan insofar as it did not begin April 1, 2016.

On September 13, 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 receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive a renewal notice telling you that you needed to update your application by March 15, 2016 in order to renew her coverage.

- 3) You testified that you realized you needed to update your daughter's application for health insurance when you received the March 17, 2016 disenrollment notice issued by NYSOH.
- 4) The record reflects that on March 22, 2016, NYSOH received your daughter's updated application for health insurance.
- 5) You testified that immediately after you learned that our daughter would not have coverage until May 1, 2016 under her CHP plan through NYSOH, you contacted your qualified health plan, United Healthcare, and requested that she be placed under your policy. You further testified that your daughter was permitted to enroll under your policy for the month of April 2016 at an unsubsidized cost of approximately \$500.00.
- 6) You testified that you are not only seeking that your daughter be enrolled in her CHP plan as of April 1, 2016, rather than May 1, 2016, but also to be reimbursed for the plan premium of \$500.00 you were forced to pay to United Healthcare for your daughter's coverage during 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

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.

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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 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)).

### 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; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your daughter was disenrolled from her CHP plan effective March 31, 2016 and was not re-enrolled until May 1, 2016, resulting in a gap in coverage during the April of 2016.

Your daughter was originally found eligible for CHP and enrolled effective April 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 February 7, 2016 renewal notice stated that there was not enough information to determine whether your daughter was eligible to continue her financial assistance for health insurance, and that you needed to supply additional information by March 15, 2016, or her 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 daughter's coverage and as a result you did not submit an updated application prior to March 15, 2016.

The record indicates that your daughter was then disenrolled from her CHP plan because you did not respond to the renewal notice. Your daughter's eligibility and enrollment subsequently ended on March 31, 2016.

However, under the presumptive eligibility rule, your daughter should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning April 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.

Since the end date of the previous 12 month policy period of your daughter's eligibility for and enrollment in CHP as of March 31, 2016, your children should have been determined presumptively eligible from April 1, 2016 through May 31, 2016 so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

Therefore, March 17, 2016 eligibility determination notice is MODIFIED to state that your daughter was presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The March 23, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her CHP plan was effective as of April 1, 2016.

Since your daughter was properly found to have been reenrolled in her CHP plan effective April 1, 2016, the second issue under review is whether NYSOH Appeals Unit consider your appeal to seek reimbursement from your qualified health plan, United Healthcare, for your daughter's enrollment in that plan during the month of April 2016.

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You testified that immediately after you learned that our daughter would not have coverage until May 1, 2016 under her CHP plan through NYSOH, you contacted your United Healthcare and requested that she be placed under your policy. You further testified that your daughter was permitted to enroll under your policy for the month of April 2016 at an unsubsidized cost of approximately \$500.00.

The NYSOH 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, (4) a failure by NYSOH to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit.

Since the NYSOH Appeals Unit is not given the authority to review reimbursement of premium amounts, we cannot reach the merits as to whether you were eligible for a reimbursement of the approximately \$500.00 premium you paid for your daughter's enrollment in United Healthcare during the month of April 2016. Therefore, your request for reimbursement for amounts paid to United Healthcare for your daughter's coverage during the month of April 2016 is **DISMISSED** as a non-appealable issue.

Your case is **RETURNED** to NYSOH to (1) reinstate your daughter in her CHP plan for the month of April 2016 (at your sole discretion) and (2) facilitate a possible reimbursement of premium amounts due to you, if any, in connection with the enrollment of your daughter with United Healthcare during the month of April 2016.

## **Decision**

March 17, 2016 eligibility determination notice is **MODIFIED** to state that your daughter was presumptively eligible to remain in CHP for two months pending your completion of their recertification.

The March 23, 2016 notice of enrollment is **MODIFIED** to state that your daughter's enrollment in her CHP plan was effective as of April 1, 2016.

Your case is **RETURNED** to NYSOH to (1) reinstate your daughter in her CHP plan for the month of April 2016 (at your sole discretion) and (2) facilitate a possible reimbursement of premium amounts due to you, if any, in connection with the enrollment of your daughter with United Healthcare during the month of April 2016.



**Effective Date of this Decision:** October 20, 2016

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

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

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan for the month of April 2016 (at your sole discretion), and to facilitate a possible reimbursement of premium amounts due to you, if any, in connection with the enrollment of your daughter with United Healthcare during 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 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**

March 17, 2016 eligibility determination notice is MODIFIED to state that your daughter was presumptively eligible to remain in CHP for two months pending your completion of their recertification.

The March 23, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her CHP plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to (1) reinstate your daughter in her CHP plan for the month of April 2016 (at your sole discretion) and (2) facilitate a possible reimbursement of premium amounts due to you, if any, in connection with the enrollment of your daughter with United Healthcare during the month of April 2016.

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

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan for the month of April 2016 (at your sole discretion), and to facilitate a possible reimbursement of premium amounts due to you, if any, in connection with the enrollment of your daughter with United Healthcare during 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:**

