



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

Notice of Decision

Decision Date: November 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008558

[REDACTED]

Dear [REDACTED],

On October 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 eligibility determination 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.

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

Decision

Decision Date: November 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008558



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 children's enrollment in their Child Health Plus plan was effective April 1, 2016?

Did NY State of Health properly determine that you and your spouse's enrollment in an Essential Plan was effective April 1, 2016?

Procedural History

On December 31, 2014, State of Health (NYSOH) issued an eligibility redetermination that stated your household remained eligible for Medicaid effective as of December 1, 2014.

Also on December 31, 2014, NYSOH issued an enrollment notice confirming your household members were enrolled in a Medicaid Managed Care plan.

On September 16, 2015, NYSOH issued a renewal notice stating in part, that there was not enough information from state and federal data sources to determine whether your family would qualify for financial assistance in the next coverage year. It directed you to update the information in your account by November 15, 2015 or your family's financial assistance might end.

On November 10, 2015, NYSOH received your updated application for health insurance.

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On November 11, 2015, NYSOH issued a notice of eligibility determination, based on your November 10, 2015 application, stating that you and your spouse were newly eligible for advance premium tax credits of \$469.00 per month effective December 1, 2015. The notice further stated that your children were newly eligible to enroll in Child Health Plus (CHP), at a cost of \$9.00 per month per child, effective December 1, 2015.

Also on November 11, 2015, NYSOH issued an enrollment confirmation notice that stated, based on your plan selection on November 10, 2015, your children were enrolled in a CHP plan for an \$18.00 per month premium and that their plan would start December 1, 2015. That notice further stated that your and your spouse's qualified health plan would not start until you picked a plan.

On January 6, 2016, you updated your household income information on your NYSOH account.

On January 7, 2016, NYSOH issued a notice that stated it had received your updated application and your household may be eligible for health insurance, but more information was needed to confirm your eligibility. The notice stated that the information you provided did not match State and Federal data sources. The notice requested you provide income documentation for your household by January 22, 2016.

Also on January 7, 2016, NYSOH issued a disenrollment notice stating that your children's coverage through their CHP plan would end, effective January 31, 2016.

On January 12, 2016 and January 20, 2016, you uploaded income documentation to your account.

On January 22, 2016, NYSOH issued a notice indicating that additional information was required to confirm your household's eligibility for health insurance. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income was requested by February 6, 2016.

On February 1, 2016, NYSOH issued another notice indicating that additional information was required to confirm your household's eligibility for health insurance through NYSOH. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income was required.

On February 22, 2016, income documentation was uploaded to your account.

On February 25, 2016, NYSOH issued a notice indicating that additional information was required to confirm your household's eligibility for health

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insurance through NYSOH. The notice further stated that although you had submitted documentation to resolve the inconsistency, the documentation was insufficient and additional proof of income for your spouse was required.

On March 4, 2016, additional income documentation was uploaded to your account.

On March 15, 2016, NYSOH issued an eligibility determination stating that both you and your spouse were eligible for the Essential Plan with monthly premiums of \$20.00 each effective April 1, 2016. That same eligibility determination stated your children were eligible to enroll in Child Health Plus, each with a \$9.00 per month premium, once you selected a plan, with an eligibility effective date of April 1, 2016.

Also on March 15, 2016, NYSOH issued an enrollment confirmation notice which stated that you and your spouse were enrolled in Essential Plan 1 with a \$20.00 per month premium each with a plan enrollment start date of April 1, 2016. That same enrollment confirmation notice stated that your children were enrolled in their CHP plan with an \$18.00 per month premium with a plan enrollment start date of April 1, 2016.

On April 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their CHP plan insofar as it did not start February 1, 2016 to avoid a gap in coverage.

On April 13, 2016, NYSOH issued an eligibility redetermination notice that stated that you and your spouse were eligible for the Essential Plan for a limited time, with an eligibility effective date of May 1, 2016. That same eligibility determination stated your children were eligible to enroll in Child Health Plus, with a \$9.00 per month premium with an eligibility effective date of May 1, 2016.

Also on April 13, 2016, NYSOH issued an enrollment confirmation notice which stated that you and your spouse were enrolled in Essential Plan 1 with a \$20.00 per month premium each with a plan enrollment start date of April 1, 2016. That same enrollment confirmation notice stated that your children were enrolled in their CHP plan with an \$18.00 per month premium with a plan enrollment start date of April 1, 2016.

On June 13, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their Child Health Plus plan and the start date of your and your spouse's Essential Plan.

On October 7, 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.

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Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you, your spouse and your children were enrolled in Medicaid effective December 1, 2014 and remained eligible through November 30, 2015.
- 2) You submitted an updated application to NYSOH for financial assistance on November 10, 2015, for the upcoming coverage year.
- 3) According to your NYSOH account, as a result of that November 10, 2015 application, you and your spouse were found eligible for advance premium tax credits of \$157.00 per month effective December 1, 2015. That same eligibility redetermination notice stated that your children were newly eligible for Child Health Plus with an effective date of December 1, 2015.
- 4) According to your NYSOH account and your testimony, you enrolled your children in a CHP plan on November 10, 2015 with an \$18.00 per month premium and a December 1, 2015 start date. NYSOH issued an enrollment confirmation notice to this effect. That same enrollment confirmation notice stated that your and your spouse's qualified health plan would not start until you picked a plan.
- 5) According to your NYSOH account, your and your spouse's Medicaid Managed Care plan ended November 30, 2015.
- 6) According to your NYSOH account and your testimony, you updated your account on January 6, 2016. That application for financial assistance shows an expected annual income of \$26,040.00. Based on the information contained in this application, NYSOH requested additional proof of income documentation by January 22, 2016 so as to make an eligibility determination.
- 7) According to your NYSOH account, as a result of the January 6, 2016 update, your children were disenrolled from their CHP plan effective January, 2016.
- 8) According to your NYSOH account, on January 12, 2016 and January 20, 2016, you uploaded two recent pay vouchers from your employer which reflected your work as a part time [REDACTED]
- 9) On January 29, 2016, NYSOH invalidated this documentation as being insufficient to resolve the request. According to your NYSOH account, you and your spouse needed to submit 4 weeks of consecutive current pay or

letter from employer stating your gross income. On February 1, 2016, NYSOH issued a notice to this effect and requested additional information.

- 10) According to your NYSOH account, on March 4, 2016 you uploaded 3 letters from employers. Two letters were from the two different [REDACTED] where your spouse was employed and the third letter was from your employer that stated your terms of employment and rate of daily pay as a [REDACTED]
- 11) On March 14, 2016, NYSOH corrected your 2016 expected income to \$3,848.00 to reflect the accurate amount and your spouse's expected income remained at \$43,500.60 for a total household income of \$47,348.60. Based upon this corrected household income, a preliminary eligibility determination was issued finding you and your spouse eligible for the Essential Plan with a \$20.00 premium per month each, effective April 1, 2016. That same preliminary eligibility determination found your children eligible for Child Health Plus at a premium of \$9.00 per month each, effective April 1, 2016.
- 12) You testified, and the record reflects, that you selected for yourself and your spouse an Essential Plan on March 14, 2016. Also on March 14, 2016, you selected a Child Health Plus plan for your children.
- 13) You testified that you wanted your children's CHP plan to begin on February 1, 2016 because both children had significant medical issues in February 2016 and March 2016. You do not want there to be a gap in their Child Health Plus coverage due to the January 7, 2016 disenrollment notice.
- 14) You testified that you wanted your and your spouse's enrollment in an Essential Plan to begin on February 1, 2016 because your spouse incurred medical bills during that month.
- 15) According to your NYSOH account, at all times relevant, your children resided with and your spouse in the State of New York.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability

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programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility as well as the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility through data sources, they must also attempt to resolve the inconsistency by giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

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 below 400% of the federal poverty level (FPL) for the applicable household size (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your first application for your two youngest children, that was the 2016 FPL, which was \$24,300.00 for a four-person household (80 Federal Register 3236, 3237).

"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)).

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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)).

The State of New York has also 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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

It is initially noted that there are two appeals showing in your NYSOH account. Appeal AP000000008558 was submitted on April 1, 2016 on the issue of the March 14, 2016 eligibility determination on the children's CHP start date. The second appeal, AP000000010220 was submitted June 13, 2016 on the issue of the April 12, 2016 eligibility determination as it applied to the eligibility effective date of your and your spouse's Essential Plan and the eligibility effective date of your children's CHP plan, which for both is stated as May 1, 2016.

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At the October 7, 2016 hearing for appeal AP000000008558, you testified that you were seeking a review of both your and your spouse's Essential Plan and your children's CHP plan start dates. A review of your NYSOH account indicates that the June 13, 2016 appeal was set up in error. Therefore, the Hearing Officer agreed to amend your appeal to include both your and your spouse's Essential Plan start date issue and your children's CHP start date issue under the single appeal AP000000008558.

The first issue is whether NYSOH properly determined that your children's enrollment in their (CHP) plan was effective April 1, 2016?

You testified, and the record indicates, that you updated your NYSOH application for financial assistance for your household on November 10, 2015. As a result, you and your spouse were found eligible for advance premium tax credits of \$469.00 per month, effective December 1, 2015, and your children were found eligible for CHP with a \$9.00 monthly premium each, effective December 1, 2015. You enrolled your children in a CHP plan on November 10, 2015 with a plan start date of December 1, 2015. NYSOH issued an enrollment confirmation notice to this effect on November 11, 2015.

You testified and the record indicates that you updated you NYSOH account on January 6, 2016 and, as a result of that update, NYSOH disenrolled your children from their CHP plan with a coverage ended in January 2016.

Since your children were first found eligible for coverage through CHP effective December 1, 2015, barring circumstances not present here, their coverage should have continued without interruption for a full 12 months, or until November 30, 2016.

Moreover, NYSOH again found your children eligible for coverage under CHP effective April 1, 2016, and their coverage should have then been extended until March 31, 2017, barring circumstances again not present here that would disqualify them from CHP eligibility.

The record does not indicate that any CHP premiums were not timely paid, that your children have gained access to or obtained other health insurance, or that your children have become eligible for Medicaid. The record does confirm that they have resided in New York State at all times relevant.

When you updated your NYSOH account on January 6, 2016 to change the household income, this should have triggered a review and recalculation by NYSOH of the monthly premium due for CHP coverage, but a disenrollment from CHP coverage should not have occurred.

When additional determinations were made on March 15, 2016 and April 13, 2016, the 12-month period of CHP eligibility that began on December 1, 2015

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had not expired, and no event had occurred to end that eligibility. As such, according to the credible evidence of record, your children's enrollment in their CHP plan coverage should not have been terminated in January 2016.

Therefore, NYSOH improperly disenrolled your children from CHP coverage in January 2016 and their coverage should have continued without interruption and the January 7, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their CHP plan in order to provide them with continuous coverage from December 1, 2015.

The second issue is whether NYSOH properly determined that your and your spouse's enrollment in the Essential Plan was effective April 1, 2016.

On November 11, 2016, NYSOH issued an eligibility determination notice that stated you and your spouse were eligible to receive advance premium tax credits of \$469.00 per month to help pay for a qualified health plan through NYSOH with an eligibility effective date of December 1, 2015.

Also on November 11, 2015, NYSOH issued a disenrollment notice that in relevant part, terminated your and your spouse's Medicaid coverage effective November 30, 2015. This was because you and your spouse were no longer eligible to enroll in your current health coverage. That notice stated you needed to select a new qualified health plan so there would not be a gap in coverage.

You testified and your account reflects that you did not select a health plan.

The record reflects that you next updated your NYSOH account on January 6, 2016 with new income information and submitted an application for financial assistance on that date. That application for financial assistance shows an expected annual income of \$26,040.00.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

NYSOH issued a notice on January 7, 2016 based on the January 6, 2016 application, which stated more information in the form of income documentation was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by January 22, 2016.

In response to NYSOH's request for proof of income documentation, you testified and the record indicates, that on January 12, 2016 and January 20, 2016, you

uploaded to your account two recent pay vouchers from your employer which reflected your work as a [REDACTED]

According to your NYSOH account this documentation was invalidated on January 29, 2016 as being insufficient to resolve the request. You and your spouse needed to submit 4 weeks of consecutive current pay or a letter from an employer stating your gross income. On February 1, 2016, NYSOH issued a notice to this effect and requested additional information.

According to your NYSOH account, on March 4, 2016, you uploaded three letters from employers. Two letters were from the two different [REDACTED] where your spouse was employed and the third letter was from your employer that stated your terms employment and rate of daily pay as a [REDACTED]

On March 11, 2016, NYSOH validated this documentation as proof of income and your application for financial assistance was updated.

On March 14, 2016, NYSOH corrected your 2016 expected income to \$3,848.00 to reflect the accurate amount and your spouse's expected income remained at \$43,500.60 for a total household income of \$47,348.60. Based upon this corrected household income, a preliminary eligibility determination was made finding you and your spouse eligible for the Essential Plan with a \$20.00 premium per month each, effective April 1, 2016.

A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

On March 14, 2016, you selected an Essential Plan for you and your spouse, so enrollment properly took effect on the first day of the first month following March 2016; that is, on April 1, 2016.

Therefore, the March 15, 2016 enrollment confirmation notice stating that your and your spouse's enrollment in the Essential Plan was effective April 1, 2016, is correct and must be AFFIRMED.

As noted previously, your appeal was amended to include an appeal on April 12, 2016 based upon an April 12, 2016 preliminary eligibility determination that found you and your spouse eligible to enroll in the Essential Plan with monthly premiums of \$20.00 each with an eligibility effective date of May 1, 2016. That same notice stated that your children were eligible to enroll in Child Health Plus with monthly premiums of \$9.00 each with an eligibility effective date of May 1, 2016.

Also on April 13, 2016, NYSOH issued an enrollment confirmation notice that stated that you and your spouse were enrolled in Essential Plan 1 with \$20.00 per month premium each with a plan enrollment start date of April 1, 2016. That same enrollment notice stated your children were enrolled in their CHP plan with an \$18.00 per month premium with a plan start date of April 1, 2016.

While you appealed this April 13, 2016 eligibility determination that appeal was set up in error and is now rendered moot by the AFFIRMATION of the March 15, 2016 enrollment confirmation notice which states that your and your spouse's enrollment in Essential Plan 1 began on April 1, 2016.

Decision

The January 7, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your children's re-enrollment into their CHP coverage for January 2016 in a manner that ensures there is no gap in their CHP plan coverage.

The March 15, 2016 eligibility determination notice as it applies to your and your spouse's eligibility for the Essential Plan is AFFIRMED.

The March 15, 2016 enrollment confirmation notice as it applies to your and your spouse's enrollment in Essential Plan 1 is AFFIRMED.

Effective Date of this Decision: November 22, 2016

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in coverage under Child Health Plus through NYSOH began on December 1, 2015, and should have continued without interruption for 12 months based on that start date.

NYSOH will facilitate the re-enrollment of your children into their CHP plan coverage for January 2016 to ensure that there is no gap in coverage.

You will be responsible for paying the insurance carrier any unpaid CHP premiums that are owed for the months in which your children experienced a gap in coverage.

This decision does not change your or your spouse's eligibility.

The effective date of your and your spouse's Essential Health Plan is April 1, 2016.

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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):

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- 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 7, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your children's re-enrollment into their CHP coverage for January 2016 in a manner that ensures there is no gap in their CHP plan coverage.

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The March 15, 2016 eligibility determination notice as it applies to your and your spouse's eligibility for the Essential Plan is AFFIRMED.

The March 15, 2016 enrollment confirmation notice as it applies to your and your spouse's enrollment in Essential Plan 1 is AFFIRMED.

Your children's eligibility for and enrollment in coverage under Child Health Plus through NYSOH began on December 1, 2015, and should have continued without interruption for 12 months based on that start date.

NYSOH will facilitate the re-enrollment of your children into their CHP plan coverage for January 2016 to ensure that there is no gap in coverage.

You will be responsible for paying the insurance carrier any unpaid CHP premiums that are owed for the months in which your children experienced a gap in coverage.

This decision does not change your or your spouse's eligibility.

The effective date of your and your spouse's Essential Health Plan is April 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

