



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

## Notice of Decision

Decision Date: October 24, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008701

[REDACTED]

Dear [REDACTED],

On October 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2015 notice of disenrollment and March 23, 2016 notice of eligibility determination.

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 24, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008701



## Issue

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

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

## Procedural History

On March 25, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your March 24, 2015 application, stating that your children were eligible to enroll in Child Health Plus at full cost, effective May 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On October 23, 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.

You enrolled your children in a new Child Health Plus plan on November 3, 2015.

On November 4, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your November 3, 2015 enrollment, stating that your children were eligible to enroll in Child Health Plus at full cost, effective May 1, 2016.

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Also on November 4, 2015, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a new Child Health Plus plan with a premium of \$483.98 per month, effective December 1, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that your children were no longer eligible for Child Health Plus. That notice also stated that your children will continue to have coverage until April 30, 2016 for a cost of \$0.00 per month. According to the notice, this was 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 was to end January 1, 2016.

On December 24, 2015, NYSOH issued a disenrollment notice stating that your children's enrollment in their Child Health Plus plan was terminated effective December 31, 2015.

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

On March 23, 2016, NY State of Health (NYSOH) issued a notice of eligibility redetermination, stating that your children were eligible to enroll in Child Health Plus with a premium of \$60.00 each, 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 children were enrolled in a Child Health Plus plan and that coverage would start on May 1, 2016.

On April 6, 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 continue as of January 1, 2016.

On October 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 that you are appealing only your children's eligibility.
- 2) According to your NYSOH account, your children were enrolled in a Child Health Plus plan with an enrollment start date of May 1, 2015.

- 3) On October 23, 2015, NYSOH issued a renewal notice, stating that you must renew your children's health insurance for 2016. According to your NYSOH account, you did enroll your children in a new Child Health Plus plan on November 3, 2015, with an effective date of May 1, 2016.
- 4) You testified you paid your premiums each month and received your insurance ID cards from the new Child Health Plus plan.
- 5) According to your NYSOH account and your testimony, your children were disenrolled from their Child Health Plus plan, effective December 31, 2015 and re-enrolled as of May 1, 2016, resulting in a gap in health insurance coverage for the period of January 1, 2016 through April 30, 2016.
- 6) You testified no one contacted you to let you know your children were disenrolled. You found out that your children had no health coverage in March 2016 when you took one of your children to the doctors.
- 7) Your NYSOH account shows that you updated your children's account on March 22, 2016.
- 8) You are seeking that your children be enrolled in their Child Health Plus plan as of January 1, 2016.
- 9) According to your NYSOH account, your family resided in Suffolk County, New York at all times relevant.
- 10) According to your NYSOH account, your children's Child Health Plus was not cancelled due to nonpayment of premium, or because they moved out of New York, no longer had valid Social Security numbers, 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

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)).

## **Legal Analysis**

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

Your children were enrolled in Child Health Plus effective May 1, 2015.

On October 23, 2015, NYSOH issued a notice that it was time to renew your children’s health insurance for 2016. The notice stated that you needed to update your account by December 15, 2015 or your children might lose the financial assistance they were currently receiving.

Conflicting notices were sent out by NYSOH as a result of you enrolling your children in Child Health Plus on November 3, 2015. On November 4, 2015, NYSOH issued a notice of eligibility determination stating that your children had Child Health Plus effective May 1, 2016. That same day, an enrollment confirmation notice was sent stating your children were enrolled in Child Health Plus, effective December 1, 2015.

On December 21, 2015, NYSOH’s system noted that you had not responded to the October 2015 renewal notice and issued an eligibility determination notice stating that your children were no longer eligible for Child Health Plus. That notice also stated that your children will continue to have coverage until April 30, 2016 at a cost of \$0.00 per month. However, your children’s coverage ended December 31, 2015, as confirmed by a disenrollment notice dated December 24, 2015.

Once children are eligible for Child Health Plus, they generally remain eligible for a period for 12 continuous months unless an event occurs which disqualifies them from CHP eligibility. You testified that you paid your premiums each month. Your NYSOH account 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.

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Your NYSOH account does confirm that they resided in New York State at all times relevant. Since the period of your children's Child Health Plus eligibility began on May 1, 2015, it should have continued for 12 months through April 30, 2016.

When additional determinations were made after November 3, 2015, the twelve-month period of Child Health Plus eligibility that began on May 1, 2015 had not expired, and no event had occurred to end that eligibility. According to the credible evidence of the record, your children's Child Health Plus coverage should not have ended effective December 31, 2015.

Therefore, to bring the notices in line with this Decision, the following changes are made:

The November 4, 2015 notices of eligibility determination and enrollment are **RESCINDED**.

The December 21, 2015 eligibility redetermination notice is **RESCINDED**.

The December 24, 2015 disenrollment notice stating that your children's enrollment in their Child Health Plus plan was terminated effective December 31, 2015, is **RESCINDED**.

The March 23, 2016 notice of eligibility redetermination and enrollment confirmation stating that your children are eligible for Child Health Plus and enrolled in Child Health Plus with CDPHP, effective May 1, 2016 will not be disturbed.

Your case is **RETURNED** to NYSOH to ensure that your children's coverage in their Child Health Plus plan is restored for the period of January 1, 2016 through April 30, 2016, and to notify you accordingly.

## **Decision**

The November 4, 2015 notices of eligibility determination and enrollment are **RESCINDED**.

The December 21, 2015 eligibility redetermination notice is **RESCINDED**.

The December 24, 2015 disenrollment notice stating that your children's enrollment in their Child Health Plus plan was terminated effective December 31, 2015, is **RESCINDED**.

The March 23, 2016 notice of eligibility redetermination and enrollment confirmation stating that your children are eligible for Child Health Plus and

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enrolled in Child Health Plus with CDPHP, effective May 1, 2016 will not be disturbed.

Your case is RETURNED to NYSOH to ensure that your children's coverage in their Child Health Plus plan is restored for the period of January 1, 2016 through April 30, 2016, and to notify you accordingly.

**Effective Date of this Decision:** October 24, 2016

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

The effective date of your children's Child Health Plus plan is May 1, 2015 with coverage continuing through April 30, 2016.

Your case is being sent back to NYSOH to ensure your children's coverage in their Child Health Plus plan is restored during the months in which there was a gap in their coverage.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed, if any, for the months in which your children 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 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

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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**

The November 4, 2015 notices of eligibility determination and enrollment are **RESCINDED**.

The December 21, 2015 eligibility redetermination notice is **RESCINDED**.

The December 24, 2015 disenrollment notice stating that your children's enrollment in their Child Health Plus plan was terminated effective December 31, 2015, is **RESCINDED**.

The March 23, 2016 notice of eligibility redetermination and enrollment confirmation stating that your children are eligible for Child Health Plus and enrolled in Child Health Plus with CDPHP, effective May 1, 2016 will not be disturbed.

Your case is **RETURNED** to NYSOH to ensure that your children's coverage in their Child Health Plus plan is restored for the period of January 1, 2016 through April 30, 2016, and to notify you accordingly.

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

Your case is being sent back to NYSOH to ensure your children's coverage in their Child Health Plus plan is restored during the months in which there was a gap in their coverage.

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

## **Legal Authority**

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

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

