



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

## Notice of Decision

Decision Date: October 17, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008737

[REDACTED]

Dear [REDACTED],

On October 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 17, 2016 eligibility determination notice and the April 8, 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

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 17, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000008737

[REDACTED]

## 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 child was disenrolled from his 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?

## Procedural History

On February 24, 2015, NYSOH issued a notice of eligibility determination, based on your February 23, 2015 application, stating that your child was eligible for Child Health Plus (CHP) effective April 1, 2015. Your child was subsequently enrolled in a CHP plan.

On February 9, 2016, NYSOH issued a notice that it was time to renew your child'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 child would qualify for financial help paying for his health coverage, and that you needed to update your account by March 15, 2016 or your child might lose the financial assistance he 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 child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could

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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 child's renewal within the required time frame. Your child's eligibility ended March 31, 2016.

On April 7, 2016, NYSOH received your child's updated application for health insurance.

On April 8, 2016, NYSOH issued a notice of eligibility determination, based on your April 7, 2016 application, stating that your child was eligible to enroll in CHP with a \$15.00 monthly premium, effective May 1, 2016.

Also on April 8, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 7, 2016, stating that your child was enrolled in a CHP plan and that coverage would start on May 1, 2016. You spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin April 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 receive all of your notices from NYSOH be electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application by March 15, 2016 in order to renew your child's coverage.
- 3) You testified that you realized you needed to update your child's application for health insurance on April 7, 2016 when you were forced to pay for full cost for a prescription you tried to fill for your child.
- 4) The record reflects that on April 7, 2016, NYSOH received your child's updated application for health insurance.
- 5) You testified that you are seeking that your child be enrolled in his CHP plan as of April 1, 2016, since you incurred approximately \$250.00 in out-of-pocket costs associated with his prescription costs incurred 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. 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)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child was disenrolled from his CHP 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.

Your child were 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 9, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue his financial assistance for health insurance, and that you needed to supply additional information by March 15, 2016, or his financial assistance might end.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account on behalf of your child. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your child's behalf.

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

However, under the presumptive eligibility rule, your child 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 CHP, 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 child's eligibility for and enrollment in CHP was March 31, 2016, your child should have been determined presumptively eligible from April 1, 2016 through April 30, 2016 so as to avoid a gap in his CHP coverage for the upcoming policy period and allow you to submit sufficient information to have his eligibility determined.

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

The April 8, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP for the month of April 2016.

## **Decision**

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

The April 8, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP for the month of April 2016.

**Effective Date of this Decision:** October 17, 2016

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

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Your child should have been given up to two months of CHP presumptive eligibility effective April 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for 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  
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- By fax: 1-855-900-5557

## **Summary**

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

The April 8, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP for the month of April 2016.

Your child should have been given up to two months of CHP presumptive eligibility effective April 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for 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:**

