



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

## Notice of Decision

Decision Date: December 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009001

[REDACTED]

Dear [REDACTED],

On November 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 13, 2016 disenrollment notice and April 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 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: December 1, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009001



## Issue

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

Did the NY State of Health (NYSOH) properly determine that your child's enrollment in his Child Health Plus plan ended February 29, 2016, and did not resume until June 1, 2016?

## Procedural History

On December 2, 2015, NYSOH redetermined your eligibility for health insurance.

On December 6, 2015, NYSOH issued an eligibility determination notice, stating that your son was eligible to enroll in Child Health Plus (CHP) with a \$9.00 monthly premium, effective January 1, 2016. However, the notice went on to state that based on your household income of \$36,652.72 and your son's membership as part of a federal or state recognized tribe, your son was eligible to enroll in CHP at "no monthly cost to you."

On December 24, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 23, 2015, stating that your son was enrolled in a CHP plan, with a premium of \$9.00 per month, and that this enrollment would start February 1, 2016.

On February 12, 2016, NYSOH redetermined your son's eligibility based on information contained in the application as of December 23, 2015.

On February 13, 2016, NYSOH issued an eligibility determination notice. The notice stated that your child was eligible to enroll in CHP with a \$9.00 monthly premium, effective March 1, 2016. However, this notice also went on to state that based on your household income of \$36,652.72 and your son's membership as part of a federal or state recognized tribe, your son was eligible to enroll in CHP at "no monthly cost to you."

Also on February 13, 2016, NYSOH issued a disenrollment notice stating that your child's coverage would end effective February 29, 2016 because he was no longer eligible to remain enrolled in his current health insurance. The notice also advised that you pick a health plan right away to ensure there is no gap in your health insurance. Another form issued that day directed you to select a plan for your son.

On April 19, 2016, NYSOH received a revised application for health insurance.

On April 20, 2016, NYSOH issued an eligibility determination notice, based on the April 19, 2016 application, stating that your child was eligible to enroll in CHP, effective June 1, 2016, and would remain in that plan until May 31, 2017 and pay \$0.00 per month. The notice also stated that your child could enroll in a CHP for \$0.00 per month because members of federally recognized American Indian or Alaskan Native tribes can enroll in a health plan at no cost.

On April 23, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 19, 2016, stating that your son was enrolled in a CHP plan with a monthly premium of \$0.00, and that this enrollment in the plan would start June 1, 2016. You spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it began as of June 1, 2016, rather than April 1, 2016.

On November 1, 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 youngest child's eligibility insofar as his CHP plan coverage was terminated effective February 29, 2016, and did not resume until June 1, 2016.
- 2) You submitted an application to NYSOH for financial assistance on December 2, 2015. You testified, and your application reflects, that your child was a member of the [REDACTED] [REDACTED].

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- 3) The record reflects, that you enrolled your child into a Child Health Plus plan on December 23, 2015 at a monthly premium of \$9.00. This coverage began on February 1, 2016.
- 4) On February 13, 2016, NYSOH issued a disenrollment notice stating that your child had been disenrolled from his CHP plan coverage since he was no longer eligible to remain enroll in that plan. This notice also advised you to select a plan as soon as possible to avoid a gap in coverage.
- 5) You testified, and the record reflects, that you requested to receive all notices from NYSOH by regular mail.
- 6) You testified that you did not receive the disenrollment notice. You further testified that you did not become aware that your child had been disenrolled from his CHP plan coverage until mid-April 2016 when your son whet to the hospital. You were told at that time by hospital staff that your son no longer had active CHP coverage.
- 7) The record reflects that you revised your application on April 19, 2016, and enrolled your child in a CHP plan at no cost, effective June 1, 2016.
- 8) You testified that you need your child's CHP plan coverage to begin at least as of April 1, 2016 because you incurred significant out-of-pocket costs associated with his hospital visit and ambulance usage during 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

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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)).

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. 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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The sole issue under review is whether NYSOH properly determined that your child’s enrollment in his CHP plan ended on February 29, 2016, and did not resume until June 1, 2016.

The record reflects that your child was enrolled in a CHP plan with a monthly premium of \$9.00, effective February 1, 2016.

On February 12, 2016, NYSOH reran your child’s eligibility and was again found eligible to enroll in CHP with a monthly premium of \$9.00. However, simultaneous to his being found eligible for CHP coverage at the same premium level, he was disenrolled from the CHP plan effective February 29, 2016. The rationale provided in the notice is that he was no longer eligible to remain enrolled in that plan.

It appears that the disenrollment was caused by the correction of an earlier error in NYSOH’s system, which initially advised you that the premium for your son’s coverage would be both \$9.00 per month and \$0.00 per month.

Since the record contains no acceptable basis upon which your son should have been disenrolled from his CHP plan at that time, we find such actions by NYSOH to be in error.

Therefore, the February 13, 2016 disenrollment notice is **RESCINDED**.

You testified that you contacted NYSOH on April 19, 2016 and reenrolled your child into a CHP plan at a cost of \$0.00 per month, effective June 1, 2016.

Since your child’s disenrollment from his CHP plan as of February 29, 2016 was found to be in error by NYSOH Appeals Unit, the record now reflects that your child’s CHP coverage should have resumed, without a gap in coverage, effective March 1, 2016.

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Accordingly, the April 23, 2016 notice of enrollment is MODIFIED to state that your child's CHP coverage with a monthly premium of \$0.00 was effective March 1, 2016, with no gap in coverage.

Your case is RETURNED to NYSOH to effectuate the above referenced modification to your child's coverage, and to determine whether you were charged the appropriate premium for February 2016.

## **Decision**

The February 13, 2016 disenrollment notice is RESCINDED.

The April 23, 2016 notice of enrollment is MODIFIED to state that your child's CHP coverage with a monthly premium of \$0.00 was effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above referenced modification to your child's coverage, and to determine whether you were charged the appropriate premium for February 2016.

**Effective Date of this Decision:** December 1, 2016

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

Your child's CHP plan coverage at \$0.00 per month began as of March 1, 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 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).

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**

The February 13, 2016 disenrollment notice is RESCINDED.

The April 23, 2016 notice of enrollment is MODIFIED to state that your child's CHP coverage with a monthly premium of \$0.00 was effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the above referenced modification to your child's coverage, and to determine whether you were charged the appropriate premium for February 2016.

Your child's CHP plan coverage at \$0.00 per month began as of March 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:**

