



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: AP000000009130

[REDACTED]

Dear [REDACTED],

On October 17, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 13, 2016 eligibility determination and disenrollment notices.

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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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: AP000000009130



## Issue

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

Did NY State of Health properly determine that your youngest child's eligibility for and enrollment in Child Health Plus terminated effective March 31, 2016?

## Procedural History

On October 30, 2015 your youngest child was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On October 31, 2015 NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus with a \$30.00 per month premium effective December 1, 2015. The notice requested that you provide documentation confirming her citizenship status and social security number before January 28, 2016.

Also on October 31, 2015 NYSOH issued a notice confirming your youngest child's enrollment in a Child Health Plus plan, effective December 1, 2015.

On December 9, 2015 NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus with a \$30.00 per month premium effective January 1, 2016. The notice requested that you provide documentation confirming her citizenship status and social security number before March 7, 2016.

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On March 13, 2016 NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and social security number within the required timeframe.

Also on March 13, 2016 NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective March 31, 2016 because she is no longer eligible to enroll in health insurance through NYSOH.

On April 19, 2016 your youngest child's social security number was added to your NYSOH account.

On April 24, 2016 NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective June 1, 2016.

Also on April 24, 2016 NYSOH issued an enrollment confirmation notice stating that your youngest child was enrolled in a Child Health Plus plan.

On April 25, 2016 you spoke to NYSOH's Account Review Unit and appealed your youngest child's disenrollment from her Child Health Plus plan in the months of April and May 2016.

On October 17, 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 only appealing your youngest child's disenrollment from her Child Health Plus plan for the months of April and May 2016.
- 2) The record indicates that your youngest child was added to your NYSOH account on October 30, 2015. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a social security number because you were in the process of applying for one.

- 3) You testified that you do not remember when you received her social security number but it may have been in March 2016.
- 4) You testified that you paid premiums for youngest child's Child Health Plus plan for the months of April and May 2016.
- 5) You testified that you did not know your youngest child had been disenrolled from her Child Health Plus plan until you called NYSOH for something completely unrelated and you were informed that she was not currently enrolled.
- 6) The record indicates that on April 19, 2016 your youngest child's social security number was added to your NYSOH account.

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

## **Applicable Law and Regulations**

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42

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CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in Child Health Plus terminated effective March 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their social security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or social security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

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The record indicates that your youngest child was added to your NYSOH account on October 30, 2015. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a social security number because you were in the process of applying for one.

In the eligibility determinations issued on October 31, 2015 and December 9, 2015 you were advised that your youngest child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her social security number and citizenship status before January 28, 2016 and March 7, 2016, respectively.

You testified that you do not remember when you got her social security number but it may have been in March. The record indicates that NYSOH did not have her social security number before the March 7, 2016 deadline.

On March 13, 2016 NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective March 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on that day, this was because NYSOH did not receive documentation of her citizenship status and social security number.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your youngest child from her Child Health Plus plan was dated March 13, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of March 18, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your youngest child's Child Health Plus eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until May 1, 2016.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your youngest child for the months of April and May 2016 and the March 13, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

## **Decision**

The March 13, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into his Child Health Plus plan for the months of April and May 2016.

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

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

Your youngest child should not have been terminated from her Child Health Plus plan in April and May 2016 for failure to submit proof of her citizenship status and social security number.

Your case is being sent back to NYSOH to reinstate your youngest child into her Child Health Plus for the months of April and May 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 after 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.

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## **If You Have Questions about this Decision (Customer Service Resources):**

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- By fax: 1-855-900-5557

## **Summary**

The March 13, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into his Child Health Plus plan for the months of April and May 2016.

Your youngest child should not have been terminated from her Child Health Plus plan in April and May 2016 for failure to submit proof of her citizenship status and social security number.

## **Legal Authority**

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

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

