



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

## Notice of Decision

Decision Date: January 6, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009203

[REDACTED]

[REDACTED]

On November 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 disenrollment notice and March 19, 2016 notices of eligibility redetermination and enrollment regarding your child.

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.

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## Decision

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NY State of Health Account ID: [REDACTED]  
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## Issue

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

Did the NY State of Health properly determine that your child's disenrollment from his Child Health Plus plan was effective March 31, 2016, and his re-enrollment thereafter in his Child Health Plus plan was effective May 1, 2016?

## Procedural History

On October 22, 2015, NY State of Health (NYSOH) issued a renewal notice that said your family's eligibility for financial assistance could not be determined for the upcoming year and you needed to update your NYSOH account by December 15, 2015, or the financial assistance your family was then getting might end.

According to your NYSOH account, on November 30, 2015, your application for health insurance for 2016 was updated.

On December 3, 2015, NYSOH issued a notice that informed you that the documentation you submitted to resolve the inconsistency of household income was insufficient to resolve the request. You and your spouse were requested to submit additional documentary proof of income and a document list was attached for you to identify what types of documents can be submitted to confirm the information on your application.

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On December 5, 2015, NYSOH issued a disenrollment notice that in part stated your child's 2015 coverage in her Child Health Plus (CHP) plan would end December 31, 2015.

Also on December 5, 2015, NYSOH issued an enrollment notice confirming the CHP plan selection you made for your child would start January 1, 2016 provided you paid the \$15.00 monthly premium on time for his coverage to start. At Page 8 of that 10-page notice was a reminder that you still needed to provide proof of income for all household members, including your child, by February 28, 2016.

According to your NYSOH account, no corresponding eligibility redetermination notice was issued.

According to your NYSOH account, no income documents were submitted by February 28, 2016.

On March 15, 2016, NYSOH issued an eligibility redetermination notice that in part stated your child was eligible to enroll in a full price CHP plan or Child-only qualified health plan, effective April 1, 2016. The reason stated was that your child no longer qualified for help paying for CHP coverage because NYSOH did not receive income documents to confirm his eligibility. The notice further stated that you can still buy for him a CHP plan or a child-only qualified health plan at full cost.

In addition, that notice informed you that you and your spouse needed to submit income documentation by February 28, 2016.

Also on March 15, 2016, NYSOH issued a disenrollment notice that stated your child's coverage in his CHP plan would end effective March 31, 2016, because he was no longer eligible to remain enrolled in his current health insurance.

The March 15, 2016 enrollment notice informed you that you needed to select a health plan for your child's coverage with CHP to begin.

On March 19, 2016, NYSOH issued an eligibility redetermination notice that in part stated your child was conditionally eligible to enroll in CHP at a cost of \$15.00 per month, effective May 1, 2016.

Also on March 19, 2016, NYSOH issued an enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, with a \$15.00 monthly premium. At Page 8 of that notice was a reminder that you still needed to provide proof of income for all household members, including income related to your child by May 16, 2016.

On April 18, 2016, your NYSOH account was updated.

On April 19, 2016, NYSOH issued an eligibility redetermination notice that in part stated your child was now fully eligible to enroll in CHP, effective May 1, 2016, at a cost of \$15.00 per month.

Also on April 19, 2016, NYSOH issued an enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, with a \$15.00 monthly premium.

On April 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's re-enrollment in his Child Health Plus plan insofar as it did not begin April 1, 2016, resulting in a one month gap in health insurance coverage.

On November 14, 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 supports the following findings of fact:

- 1) You testified that you are appealing only your child's disenrollment from his CHP plan as of March 31, 2016, and his re-enrollment start date of May 1, 2016, which resulted in a gap in his coverage for the month of April 2016.
- 2) You submitted an updated application to NYSOH for financial assistance on November 30, 2015, in which you reported an annual household income of \$14,560.00 for yourself and \$34,642.00 for your spouse, which equals \$49,202.00. You testified these amounts were correct at the time.
- 3) According to your NYSOH account, your child's enrollment in Empire Blue Cross Blue Shield (BCBS) began January 1, 2016.
- 4) You testified that you receive communications from NYSOH via email alerts, and did not recall receiving the December 3, 2015 notice that additional income information was needed.
- 5) You testified that, had you received that notice, you would not have ignored it and would have timely responded with the required information.
- 6) Although there is no eligibility determination notice indicating his eligibility was conditioned upon proof of income, the December 5, 2015 enrollment notice stated at Page 8 that proof of income was needed by February 28, 2016. You testified that you did not review that far into the notice.

- 7) According to your NYSOH account and your testimony, as of the April 18, 2016, updated application, your and your spouse's income remained at \$14,560.00 and \$34,642.00 respectively. You testified these amounts were correct at all times relevant.
- 8) You testified that you need your child to be re-enrolled in his CHP plan as of April 1, 2016, to cover the expenses you incurred for medical treatment he received that month.

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).

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR §

155.535(f)). “*De novo review* means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child was disenrolled from his, effective March 31, 2016, and not re-enrolled back into that same plan until May 1, 2016, resulting in a gap in health insurance coverage during the month of April 2016.

Your child had always been enrolled in CHP with Empire BCBS from May 1, 2014 through December 31, 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 October 22, 2015 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 December 15, 2015, or his financial assistance might end.

According to your NYSOH account and your testimony, you updated your application on November 30, 2015, and reported your household income of \$49,202.00, which you testified at hearing was correct at the time.

You credibly testified that you do not recall if you received an email alert regarding the December 3, 2015 notice that stated the information you provided was not sufficient to resolve the inconsistency and you and your spouse needed to provide additional information. You credibly testified that, had you received that notice, you would have responded and timely submitted any required documentation.

According to your NYSOH account, no corresponding eligibility determination notice was issued to inform you that your child's eligibility for CHP as of January 1, 2016 was conditioned upon you submitting income documentation by a date certain to confirm his eligibility.

According to the December 5, 2015 enrollment notice, the request for income documentation was stated on Page 8 of the 10 page notice, which you did not review.

The record also reflects that when you next updated your NYSOH account and application on April 18, 2016, you provided the exact same income information you had provided on November 30, 2015. You credibly testified that your and

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your spouse's earnings had remained the same throughout this time period and you expected your household's income to remain as such as of April 18, 2016.

The record indicates that your child was disenrolled from his Child Health Plus plan because you did not respond to the request for income documentation by February 28, 2016. Your child's eligibility and enrollment subsequently ended on March 31, 2016.

Based on the foregoing conclusions, it is reasonable to infer that you did not get adequate notice of the need to submit income documentation to confirm your child's eligibility for and enrollment in CHP and, had you received such notice, would have timely complied. Moreover, the income information you provided on November 30, 2015 remained the same as of your April 18, 2016 updated application; however for some inexplicable reason, NYSOH was not able to confirm the accuracy of your attested income in November 2015, but was able to as of April 18, 2016.

Therefore, it is reasonable to conclude that the income information you provided on November 30, 2015 being the same as was submitted and verified on April 18, 2016, was verifiable as of November 30, 2015. Therefore, your child's eligibility for and enrollment in CHP as of January 1, 2016, should not have been conditioned upon your submission of additional income documentation. Therefore, by this Decision and the Appeals Unit's de novo review authority, your child was fully eligible for CHP and to enroll in a CHP plan without condition, effective January 1, 2016.

Therefore, to bring the notices in line with this decision, the following changes must be made:

By this Decision, your child was fully eligible for CHP and to enroll in a CHP plan without condition, effective January 1, 2016.

The portion of the March 15, 2016 eligibility redetermination notice stating that your child is eligible to enroll in a full price CHP plan or Child-only qualified health plan, effective April 1, 2016, is RESCINDED.

The March 15, 2016 disenrollment notice is RESCINDED.

The March 15, 2016 enrollment notice informing you that you needed to select a health plan for your child's coverage with CHP to begin is RESCINDED.

The portion of the March 19, 2016, eligibility redetermination notice stating that your child was conditionally eligible to enroll in CHP at a cost of \$15.00 per month, effective May 1, 2016 is RESCINDED.



The March 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, is RESCINDED.

The April 19, 2016 eligibility redetermination notice that in part stated your child was now fully eligible to enroll in CHP is MODIFIED to state that your child was fully eligible to enroll in CHP, effective January 1, 2016, at a cost of \$15.00 per month.

The April 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, with a \$15.00 monthly premium is MODIFIED to state his enrollment was effective January 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan Health Plus for the month of April 2016, so that there is no gap in his health insurance coverage.

## **Decision**

By this Decision, your child was fully eligible for CHP and to enroll in a CHP plan without condition, effective January 1, 2016.

The portion of the March 15, 2016 eligibility redetermination notice stating that your child is eligible to enroll in a full price CHP plan or Child-only qualified health plan, effective April 1, 2016, is RESCINDED.

The March 15, 2016 disenrollment notice is RESCINDED.

The March 15, 2016 enrollment notice informing you that you needed to select a health plan for your child's coverage with CHP to begin is RESCINDED.

The portion of the March 19, 2016, eligibility redetermination notice stating that your child was conditionally eligible to enroll in CHP at a cost of \$15.00 per month, effective May 1, 2016 is RESCINDED.

The March 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, is RESCINDED.

The April 19, 2016 eligibility redetermination notice that in part stated your child was now fully eligible to enroll in CHP is MODIFIED to state that your child was fully eligible to enroll in CHP, effective January 1, 2016, at a cost of \$15.00 per month.

The April 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, with a \$15.00 monthly premium is MODIFIED to state his enrollment was effective January 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan Health Plus for the month of April 2016, so that there is no gap in his health insurance coverage, and to notify you accordingly.

This Decision does not affect any subsequent determinations made by NYSOH.

**Effective Date of this Decision:** January 6, 2017

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

The effective date of your child's eligibility for CHP and enrollment in a CHP plan, without condition, is January 1, 2016.

Your case is being returned to NYSOH to effectuate reinstatement of your child's coverage for the month of April 2016, so he has no gap in coverage that month. NYSOH will notify you once this has been achieved.

You will be responsible for the monthly premium due to your child's CHP plan for 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

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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**

By this Decision, your child was fully eligible for CHP and to enroll in a CHP plan without condition, effective January 1, 2016.

The portion of the March 15, 2016 eligibility redetermination notice stating that your child is eligible to enroll in a full price CHP plan or Child-only qualified health plan, effective April 1, 2016, is RESCINDED.

The March 15, 2016 disenrollment notice is RESCINDED.

The March 15, 2016 enrollment notice informing you that you needed to select a health plan for your child's coverage with CHP to begin is RESCINDED.

The portion of the March 19, 2016, eligibility redetermination notice stating that your child was conditionally eligible to enroll in CHP at a cost of \$15.00 per month, effective May 1, 2016 is RESCINDED.

The March 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, is RESCINDED.

The April 19, 2016 eligibility redetermination notice that in part stated your child was now fully eligible to enroll in CHP is MODIFIED to state that your child was fully eligible to enroll in CHP, effective January 1, 2016, at a cost of \$15.00 per month.

The April 19, 2016 enrollment notice confirming in part that your child was re-enrolled in the same CHP plan he had previously, effective May 1, 2016, with a \$15.00 monthly premium is MODIFIED to state his enrollment was effective January 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan Health Plus for the month of April 2016, so that there is no gap in his health insurance coverage, and to notify you accordingly.

This Decision does not affect any subsequent determinations made by NYSOH.

The effective date of your child's eligibility for CHP and enrollment in a CHP plan, without condition, is January 1, 2016.

Your case is being returned to NYSOH to effectuate reinstatement of your child's coverage for the month of April 2016, so he has no gap in coverage that month. NYSOH will notify you once this has been achieved.

You will be responsible for the monthly premium due to your child's CHP plan for 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:**



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