



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

### Notice of Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009398

[REDACTED]

Dear [REDACTED],

On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 2016 disenrollment notice and April 5, 2016 eligibility determination notice 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 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).

This page intentionally left blank.



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

## Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009398

[REDACTED]

## 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 was disenrolled from her Child Health Plus plan, effective April 30, 2016, and not re-enrolled thereafter until June 1, 2016, resulting in a gap in coverage during the month of May 2016?

## Procedural History

On April 4, 2014, your youngest child ([REDACTED]) was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On April 5, 2014, NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus for a limited time. The notice requested that you provide documentation confirming her citizenship status and social security number within 60 days.

On May 23, 2014, you uploaded a copy of your youngest child's birth certificate and social security card to your NYSOH account ([REDACTED]).

On August 20, 2014, your youngest daughter's proof of citizenship and proof of social security number were verified by NYSOH.

On December 31, 2015, you updated your youngest child's application.

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).

On January 1, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus, effective February 1, 2016. The notice requested that you provide documentation confirming her citizenship status and social security number by March 30, 2016. That notice also stated that you needed to provide income information for your youngest child.

Also on January 1, 2016, NYSOH issued a notice confirming your youngest child's enrollment in a Child Health Plus plan, effective February 1, 2016.

On March 17, 2016, the system reran her eligibility.

On March 19, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in a full price Child Health Plus, effective May 1, 2016. The notice requested that you provide documentation confirming her Social Security number by March 30, 2016.

Also on March 19, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective April 30, 2016 because she is no longer eligible to enroll in health insurance through NYSOH.

On April 5, 2016, NYSOH issued an eligibility determination notice stating that your 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 Social Security number within the required timeframe.

On May 2, 2016, you updated your youngest child's application.

On May 3, 2016, NYSOH issued an eligibility determination notice, based on your May 2, 2016 updated application, stating that your child was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective June 1, 2016.

On May 4, 2016, you selected a health plan for your youngest child.

Also on May 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the denial of your request to backdate your youngest child's Child Health Plus plan to May 1, 2016.

On May 5, 2016, NYSOH issued an enrollment confirmation notice, based on your May 4, 2016 plan selection, stating that your child was enrolled in a Child Health Plus plan, effective June 1, 2016.

On November 22, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse was sworn in and testified on your behalf.

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).

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) Your spouse testified that you are only appealing your youngest child's gap in coverage for the month of May 2016.
- 2) According to your NYSOH account, when you applied for health insurance in 2014, you signed up for electronic communications. Your account today shows you get communications via regular mail.
- 3) Your spouse testified that you receive some notices by mail and other notices by email. Your spouse was not sure if and when your preferences for receipt of notices had changed, nor which notices you did or did not receive via regular mail.
- 4) Your spouse testified that he spoke to NYSOH and was told that the January 1, 2016 eligibility determination notice was a mistake insofar as it required income information for your youngest child.
- 5) According to your NYSOH account, your youngest child was added to your NYSOH account on April 4, 2014. The application that was submitted that day found her conditionally eligible for Child Health Plus for a limited time and required that you provide proof of her citizenship and her Social Security number.
- 6) According to your NYSOH account, you provided to NYSOH both your youngest child's birth certificate and her Social Security card on May 23, 2014 ( [REDACTED] ).
- 7) Your spouse testified that he contacted NYSOH regarding your youngest child's coverage on another occasion, after he was told that the request for income verification was a mistake, and was told by another NYSOH representative that she would just fill in the Social Security information and that your youngest child's coverage was "all set."
- 8) Your spouse testified that he was not aware your youngest child was dis-enrolled until May 2016 until he called your youngest child's health plan for an unrelated matter.

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 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)).

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).

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 was disenrolled from her Child Health Plus plan effective April 30, 2016 and thereafter not re-enrolled until June 1, 2016, resulting in a gap in coverage during the month of May 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.

The record indicates that your youngest child was added to your NYSOH account on April 4, 2014. The application that was submitted that day found her conditionally eligible for Child Health Plus for a limited time.

In the corresponding eligibility determination notice issued on April 5, 2014, you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her Social Security number and citizenship status within 60 days.

According to your NYSOH account, you provided to NYSOH both your youngest child's birth certificate and her Social Security card on May 23, 2014 [REDACTED]. Those documents were verified by NYSOH on August 20, 2014.

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).

Despite the fact that your youngest child's proof of citizenship status and Social Security number were verified on August 20, 2014, NYSOH issued an eligibility determination on January 1, 2016 requesting that you submit proof of citizenship status and Social Security number for your youngest child. That notice also stated that you were required to submit proof of income for your youngest child, who at the time was an infant.

In addition, on March 19, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective April 30, 2016, because she was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on April 5, 2016, this was because NYSOH did not receive documentation of her Social Security number.

Your spouse testified that he spoke to NYSOH and was told that the January 1, 2016 eligibility determination notice was a mistake insofar as it required income information for your youngest child, who was then an infant. He was not aware that your youngest child had been disenrolled until he called her health plan in May 2016 on an unrelated matter.

Further, your spouse credibly testified that when he contacted NYSOH regarding your youngest child's coverage, he was told by the representative that she would just fill in the Social Security information and that your child's coverage was "all set."

Since the credible evidence of the record and your spouse's testimony indicate that you supplied the requested proof of your youngest child's Social Security number to NYSOH on May 23, 2014 and this documentation was subsequently verified on August 20, 2014, NYSOH erred in terminating your youngest child's Child Health Plus coverage on April 30, 2016. As such, your youngest child should have had Child Health Plus coverage in May 2016. Therefore, the March 19, 2016 disenrollment notice and April 5, 2016 eligibility determination notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into her Child Health Plus plan for the month of May 2016.

## **Decision**

The March 19, 2016 disenrollment notice and April 5, 2016 eligibility determination notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into her Child Health Plus plan for the month of May 2016, and to notify you accordingly.

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).



**Effective Date of this Decision:** November 28, 2016

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

Your youngest child should not have been terminated from her Child Health Plus plan in April 2016 for failure to submit proof of her Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into her Child Health Plus for the month of May 2016. NYSOH will notify you once this has been completed.

You will be responsible to pay the premium to your child's Child Health Plus plan for the month of 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 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

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).

- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The March 19, 2016 disenrollment notice and April 5, 2016 eligibility determination notice are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into her Child Health Plus plan for the month of May 2016, and to notify you accordingly.

Your youngest child should not have been terminated from her Child Health Plus plan in April 2016 for failure to submit proof of her Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into her Child Health Plus for the month of May 2016. NYSOH will notify you once this has been completed.

You will be responsible to pay the premium to your child's Child Health Plus plan for the month of May 2016.

## **Legal Authority**

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

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

