



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

## Notice of Decision

Decision Date: January 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009626

[REDACTED]

[REDACTED]

On November 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 17, 2016 eligibility determination and enrollment 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 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

Decision Date: January 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009626

[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 children's enrollment in a Child Health Plus plan was effective no earlier than July 1, 2016?

## Procedural History

On February 14, 2015, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll through Child Health Plus (CHP) with a \$15.00 premium per month each, effective March 1, 2015. Your children enrolled in a CHP plan that same day.

On January 14, 2016, NYSOH issued a notice stating that it was time to renew NYSOH coverage for your children. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for health coverage, and that you needed to update your account by February 15, 2016 or your children might lose the financial assistance they were currently receiving.

On February 4, 2016, NYSOH received an updated application for health insurance. In response to this application, NYSOH prepared a preliminary determination stating that the information in your application did not match what NYSOH obtained from state and federal data sources. You were directed to provide additional documents to confirm that the information contained in your application was accurate. This preliminary determination did not specify the type

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of documentation required or the deadline by which such documents were to be sent to NYSOH. Furthermore, no written letter formalizing this request for additional documentation was ever issued by NYSOH.

On February 5, 2016, NYSOH issued a disenrollment notice stating that your children's CHP coverage would end effective February 29, 2016. No explanation as to what documentation was required was given.

On March 16, 2016, NYSOH received an updated application for health insurance.

Also on March 16, 2016, NYSOH received (1) two earnings statements issued to you by your employer, [REDACTED] on February 5, 2016 and February 19, 2016, and (2) the first page of the Temporary Modification of an Order of Support, between you and your ex-spouse, in connection with support collection for your children.

On March 18, 2016 and March 24, 2016, NYSOH issued notices acknowledging receipt of documentation to resolve an inconsistency in your application. However, the notice stated that the documentation was insufficient to resolve the request, without further explanation. You were again directed to provide additional documentation proving your income so that your children's eligibility could be confirmed.

On March 29, 2016, NYSOH received three updates to your application for health insurance. In response to each application, NYSOH prepared a preliminary determination stating that the information in your application did not match what NYSOH obtained from state and federal data sources. You were requested to provide additional documents to confirm the information contained in your application was accurate. This preliminary determination did not specify the type of documentation required or the deadline by which such documents were to be sent to NYSOH. Furthermore, no written letter formalizing this request for additional documentation was ever issued by NYSOH.

On April 11, 2016, NYSOH received an updated application for health insurance. In response to this application, NYSOH prepared a preliminary determination stating that the information in your application did not match what NYSOH obtained from state and federal data sources. You were requested to provide additional documents to confirm the information contained in your application was accurate. This preliminary determination did not specify the type of documentation required or the deadline by which such documents were to be sent to NYSOH. Furthermore, no written letter formalizing this request for additional documentation was ever issued by NYSOH.

On April 14, 2016, NYSOH received a facsimile from [REDACTED] containing two earnings statements issued to you by your employer, [REDACTED] on March 22, 2016 and April 1, 2016.

On May 11, 2016, NYSOH received an updated application for health insurance.

On May 12, 2016, NYSOH issued a notice stating that your children might be eligible for health insurance through NYSOH, but more information was needed to make a determination. You were directed to provide income documentation by May 27, 2016 to confirm the information contained in your application was accurate.

Also on May 12, 2016, NYSOH received (1) two earnings statements issued to you by your employer, [REDACTED] on April 15, 2016 and April 29, 2016, (2) a two letters issued by the Social Security Administration (SSA), each dated April 27, 2016, confirming each of your children's SSA benefits.

On May 16, 2016, NYSOH reran your eligibility for health insurance based on information in your account as of May 16, 2016. On that same day, NYSOH prepared a preliminary eligibility determination stating that your children were eligible to enroll in CHP at a premium of \$9.00 per month each, effective July 1, 2016.

Also on May 16, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the May 16, 2016 preliminary eligibility determination insofar as your children's CHP coverage began on July 1, 2016, rather than March 1, 2016.

On May 17, 2016, NYSOH issued an eligibility determination notice based on information received as of that date. The notices stated that your children were eligible for CHP coverage with a \$9.00 premium per month each, effective July 1, 2016.

Also on May 17, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your children's coverage. The notice stated that their CHP coverage would begin effective July 1, 2016.

On November 21, 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 are seeking insurance for your children only.
- 2) You testified, and your application reflects, that after having received the January 14, 2016 renewal notice, you first updated your NYSOH account on February 4, 2016.
- 3) Your account reflects that while a preliminary eligibly determination was prepared in connection with your February 4, 2016 update to your application, no notice was issued to you stating which documents were required to reconcile your application, nor by what deadline these documents were required to be received by NYSOH.
- 4) Your children's CHP coverage was terminated effective February 29, 2016.
- 5) On March 16, 2016, you provided two earnings statements issued to you by your employer, [REDACTED] on February 5, 2016 and February 19, 2016. You also provided documentation reflecting a temporary modification of an order of support, between you and your ex-spouse, in connection with support obligations for your children.
- 6) On March 18, 2016 and March 24, 2016, NYSOH issued a notice stating that the documentation you provided was insufficient to resolve the inconsistency, but did not specify the documentation necessary to do so, nor the date by which such documents were required to be received.
- 7) Your application reflects that you further updated your application March 29, 2016 and April 11, 2016; however, in each case, no written notice was issued to you stating that the application was insufficient to render a determination.
- 8) On April 14, 2016, you provided two earnings statements issued to you by [REDACTED] on March 22, 2016 and April 1, 2016.
- 9) On May 12, 2016, you provided two earnings statements issued to you by [REDACTED] on April 15, 2016 and April 29, 2016. You also provided to NYSOH two letters issued SSA, dated April 27, 2016, confirming each of your children's SSA benefits.
- 10) Your account reflects that on May 16, 2016, your children were found eligible for CHP with a \$9.00 per month premium each, effective July 1, 2016.

11) You testified that you are appealing the enrollment start date of your children's CHP plan insofar as they were found eligible for coverage effective July 1, 2016, rather than March 1, 2016. You further testified that as a result of not having had insurance for the period between March 1, 2016 and June 30, 2016, you incurred approximately \$150.00 in out-of-pocket costs in connection with their medical expenses.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility as well as the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility through data available sources, they must also attempt to resolve the inconsistency by giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

### 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

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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” (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 issue is whether NYSOH properly determined that your children’s enrollment in CHP was effective July 1, 2016, rather than March 1, 2016.

On February 4, 2016, NYSOH received your initial updated application for financial assistance after NYSOH issued the January 14, 2016 renewal notice requesting that you update your application before February 15, 2016.

NYSOH prepared a preliminary eligibility determination that same date stating that the information in your application did not match what NYSOH obtained from State and Federal data sources. The preliminary eligibility determination requested that you provide additional documents to confirm the information contained in your application was accurate. This preliminary determination did not specify the type of documentation required or the deadline by which such documents were to be sent to NYSOH. Furthermore, no written letter formalizing this request for additional documentation was ever issued by NYSOH.

In addition, your updated applications submitted on March 29, 2016 and April 11, 2016 met with the same result insofar as a preliminary eligibility determination was prepared requesting additional documentation, but you were not informed of this in writing, nor did the preliminary eligibility determination state which documents were necessary to confirm your eligibility or the deadline by which such documents were to be received.

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When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

The record reflects on March 16, 2016 you uploaded income documentation in the form of two separate pay statements from your employer. NYSOH determined this documentation to be invalid, without further explanation.

The record reflects that you next uploaded income documentation on April 14, 2016 and May 12, 2016. These sets of documentation consisted of two separate pay statements each from your employer. These earnings statements reflected two consecutive pay periods covering dates from March 22, 2016 through April 1, 2016 and from April 15, 2016 through April 29, 2016, respectively. NYSOH again determined that this documentation was invalid, without further explanation.

Finally, based on a NYSOH redetermination of your eligibility as of May 16, 2016, which appears to have based on income information previously provided by you between March 16, 2016 and May 12, 2016, your children were found eligible for CHP coverage effective July 1, 2016.

However, since the credible evidence of record reflects that you were not provided the proper notification on the need to update your application, the types of documentation to be provided to NYSOH, nor the deadlines by which such documentation was to be received NYSOH, we find that your children's eligibility was erroneously delayed to begin on July 1, 2016, rather than March 1, 2016.

Therefore, the May 17, 2016 eligibility determination and enrollment notices are MODIFIED to state that your children were eligible for CHP coverage, effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children's CHP coverage for the period between March 1, 2016 and June 30, 2016, provided the necessary premiums are remitted to the insurance carrier in a reasonable time.

## **Decision**

The May 17, 2016 eligibility determination and enrollment notices are MODIFIED to state that your children were eligible for CHP coverage, effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children's CHP coverage for the period between March 1, 2016 and June 30, 2016, provided the necessary premiums are remitted to the insurance carrier.

**Effective Date of this Decision:** January 3, 2017

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

Your children CHP coverage began effective March 1, 2016, rather than July 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 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

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## **Summary**

The May 17, 2016 eligibility determination and enrollment notices are MODIFIED to state that your children were eligible for CHP coverage, effective March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children's CHP coverage for the period between March 1, 2016 and June 30, 2016, provided the necessary premiums are remitted to the insurance carrier.

Your children CHP coverage began effective March 1, 2016, rather than July 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:**

