



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

## Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009642

[REDACTED]

Dear [REDACTED],

On November 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 19, 2016 disenrollment notice, May 17, 2016 eligibility determination notice, and May 17, 2016 enrollment confirmation notice.

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 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009642



## 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 were disenrolled from their Child Health Plus plan effective April 30, 2016 and were not re-enrolled until July 1, 2016, resulting in a gap in coverage during the months of May 2016 and June 2016?

## Procedural History

On September 12, 2015, NYSOH issued a renewal notice advising that your children had been determined eligible for Child Health Plus with a \$9.00 per month premium, effective November 1, 2015. This same notice directed you to select a Child Health Plus plan for your children.

On October 7, 2015, you updated your NYSOH account and enrolled your children into a Child Health Plus plan.

On October 8, 2015, NYSOH issued a notice of eligibility redetermination, which stated that your children were conditionally eligible to enroll in a Child Health Plus plan with a \$15.00 per month premium, effective November 1, 2015. This same notice requested that you submit income documentation by December 6, 2016.

Also on October 8, 2015, NYSOH issued an enrollment notice confirming your children's enrollment in a Child Health Plus plan effective November 1, 2015.

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On March 18, 2016, NYSOH redetermined your eligibility for financial assistance. On March 19, 2016, NYSOH issued an eligibility redetermination notice stating that your children were eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective May 1, 2016.

Also on March 19, 2016, NYSOH issued a disenrollment notice stating that your children were disenrolled from their Child Health Plus plan effective April 30, 2016 as they were no longer eligible to remain enrolled in their current health insurance.

On May 16, 2016, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application that stated that your children were eligible for Child Health Plus at a \$9.00 per month premium, effective July 1, 2016. That same day you enrolled your children in a Child Health Plus plan.

Also on May 16, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as your children's enrollment in their Child Health Plus plan did not begin on May 1, 2016.

On May 17, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus for a limited time at a \$9.00 per month premium, effective July 1, 2016. That same notice requested that you submit income documentation by July 15, 2016.

Also on May 17, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 16, 2016, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start July 1, 2016.

On November 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 supports the following findings of fact:

- 1) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) The record reflects that you updated your application for financial assistance with health insurance for your children on October 7, 2015.

- 3) The record reflects, that you enrolled your children into a Child Health Plus plan on October 7, 2015.
- 4) You testified that you did not receive any electronic alert regarding any notice in your NYSOH account telling you that you needed to submit income documentation in order to continue your children's coverage.
- 5) The record reflects that your children were disenrolled from their Child Health Plus plan on April 30, 2016 as they were determined no longer eligible to remain enrolled under their current health insurance.
- 6) Your children's eligibility was redetermined on March 18, 2016 as you failed to submit income documentation.
- 7) You testified that you did not know there was an issue with your children's coverage until you took your child to a doctor's appointment in May of 2016 and were advised by the doctor's office that your children were disenrolled from their Child Health Plus plan.
- 8) You testified that you need your children's Child Health Plus plan to begin on May 1, 2016 as one of your children had a serious medical issue in May of 2016.

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, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, 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 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming 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 information and 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)).

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

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children were disenrolled from their Child Health Plus plan effective April 30, 2016 and were not re-enrolled until July 1, 2016, resulting in a gap in coverage during the months of May 2016 and April 2016.

Your children were originally found eligible for Child Health Plus and enrolled effective November 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

On September 15, 2015, your application was automatically renewed and your children were determined eligible for Child Health Plus, effective November 1, 2015.

On October 7, 2015, you updated your account. NYSOH's October 8, 2015 eligibility notice stated that your children were conditionally eligible to enroll in a Child Health Plus plan, effective November 1, 2015, and requested that you submit income documentation by December 6, 2015.

Because no income documentation was submitted by December 6, 2015, on March 18, 2016, NYSOH redetermined your children's eligibility for financial assistance.

On March 19, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective May 1, 2016. Also on March 19, 2016, NYSOH issued a disenrollment notice indicating your children's coverage in their Child Health Plus plan would end effective April 30, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the October 8, 2015 eligibility determination notice or the October 8, 2015 enrollment notice confirmation, which directed you to submit income documentation on behalf of your children. There is no evidence in your account documenting that any email alert was sent to you regarding the need to submit income documentation on your children's behalf.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit income documentation on your children's behalf.

Therefore, the March 19, 2016 disenrollment notice is **RESCINDED**.

The May 17, 2016 eligibility determination is **MODIFIED** to state that your children's eligibility to enroll in a Child Health Plus plan is effective as of May 1, 2016.

The May 17, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the months of May 2016 and June 2016.

## **Decision**

The March 19, 2016 disenrollment notice is RESCINDED.

The May 17, 2016 eligibility determination is MODIFIED to state that your children's eligibility to enroll in a Child Health Plus plan is effective as of May 1, 2016.

The May 17, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the months of May 2016 and June 2016.

**Effective Date of this Decision:** December 8, 2016

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

Your case is being sent back to NYSOH to reinstate your children in their Child Health Plus plan for the months of May 2016 and June 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

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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

### **Summary**

The March 19, 2016 disenrollment notice is RESCINDED.

The May 17, 2016 eligibility determination is MODIFIED to state that your children's eligibility to enroll in a Child Health Plus plan is effective as of May 1, 2016.

The May 17, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the months of May 2016 and June 2016.

### **Legal Authority**

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

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

