



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

## Notice of Decision

Decision Date: December 9, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009823

[REDACTED]

Dear [REDACTED],

On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 28, 2016, and June 15, 2016 cancellation notices, as well as May 3, 2016 eligibility determination and May 4, 2016 enrollment confirmation 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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## Decision

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009823



## Issues

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

Did NY State of Health (NYSOH) properly disenroll your children from their Child Health Plus Plan effective November 30, 2015?

Did NYSOH properly determine that your child's enrollment in their Child Health Plus plan was effective June 1, 2016?

## Procedural History

On November 29, 2014, an eligibility determination was issued, based on your November 24, 2014 application finding your two children eligible to enroll in Child Health Plus with a \$9.00 premium per month effective January 1, 2015. They subsequently were enrolled in a Child Health Plus plan.

On January 16, 2016, an eligibility determination notice was issued based upon your January 15, 2016 application, finding your two children eligible to enroll in Child Health Plus for a cost of \$9.00 per month each effective February 1, 2016.

On January 17, 2016 an enrollment confirmation notice was issued confirming your enrollment on January 16, 2016, for your two children in a Child Health Plus plan for a cost of \$18.00 per month effective January 1, 2014.

On April 28, 2016, a disenrollment notice was issued stating your two children's Child Health Plus plan was terminated effective November 30, 2015. The notice stated this was because a premium payment was not received by your health plan.

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On May 3, 2016, NYSOH issued a notice of eligibility determination, based on your May 2, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective June 1, 2016.

On May 4, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 3, 2016, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start June 1, 2016.

On May 23, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as they had been disenrolled for non-payment of premium effective November 30, 2015.

On June 15, 2016 a cancellation notice was issued cancelling your two children's Child Health Plus plan effective June 1, 2016. The notice stated this was because a premium payment was not received by your health plan.

On November 22, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During your hearing you testified you are appealing the continuous disenrollments your children were experiencing from their health plan, and an additional disenrollment effective June 1, 2016. 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 two children's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on January 15, 2016.
- 3) You testified, and the record reflects, that you enrolled your children into a Child Health Plus plan on January 16, 2016.
- 4) You testified that you prepay your children's Child Health Plus coverage for the year.
- 5) You testified that you were told by MetroPlus that your children were still enrolled in their health plan.
- 6) Your NYSOH account indicates your children were disenrolled from their health plan effective November 30, 2015, for non-payment of premium.

- 7) The record supports you enrolled your children in the same Child Health Plus plan on May 3, 2016, with an effective date of June 1, 2016.
- 8) You testified that you need your children's Child Health Plus plan to begin on December 1, 2015 because you paid the premium payments for those months.
- 9) You testified you did not incur medical bills during the months your children were without coverage.
- 10) NYSOH filed two incidents on your behalf (# [REDACTED] and # [REDACTED]). The description of the complaint states that you called in stating that children were experiencing a gap in coverage but that you paid all premiums. NYSOH stated that they would reach out to your health plan and confirm the premium payment was made. Both incidents appear to be closed without proper resolution.

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" (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).

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### **Legal Analysis**

The first issue is whether your children were properly disenrolled from their Child Health Plus plan effective November 30, 2015.

The record reflects that your children were enrolled in a Child Health Plus plan with a \$9.00 monthly premium each, effective January 1, 2015.

You testified that you prepay your children's Child Health Plus coverage for the year. However, on April 28, 2016, NYSOH issued a notice of dis-enrollment stating that your children's coverage was terminated effective November 30, 2016 because premium payments have not been received by the insurer. Your children were subsequently reenrolled into Child Health Plus effective June 1, 2016. However, on June 15, 2016 a cancellation notice was issued stating that your children's coverage was terminated effective June 1, 2016 because premium payments have not been received by the insurer

This issue relates to payment of premiums to qualified health plan issuers which is not an issue that the NY State of Health Appeals Unit is authorized to address.

Therefore, we are DISMISSING your appeal on the basis of termination of your children from their Child Health Plus plan for non-payment of premiums stated in the April 28, 2016, and June 15, 2016 cancellation notices.

The second issue is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was effective June 1, 2016.

The record supports that your children were initially found eligible to enroll in Child Health Plus on November 24, 2014. You then enrolled them in a plan effective January 1, 2015.

Generally, enrollment in a Child Health Plus plan is continuous for a twelve month period starting on the first day of the plan enrollment date through the last day of the twelfth month following such date unless the Child Health Plus 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.

Your NYSOH account indicates your children were disenrolled from their health plan effective November 30, 2015, for non-payment of premium.

You testified that you then contacted NYSOH on May 3, 2016, and enrolled your children into a Child Health Plus plan with an effective date of June 1, 2016.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the May 3, 2016, eligibility determination and May 4, 2016, enrollment confirmation notices stating that your children's enrollment in their Child Health Plus plan was effective June 1, 2016, is correct and must be AFFIRMED.

NYSOH filed two incidents on your behalf (# [REDACTED] and # [REDACTED]. The description of the complaint states that you called in stating that your children were experiencing a gap in coverage but that you paid all premiums. NYSOH stated that they would reach out to your health plan and confirm the premium payment was made. However, both incidents appear to be closed without confirmation from your child health plus plan. Therefore, we are RETURNING your case to NYSOH to further investigate the issue with your health plan.

## **Decision**

Your appeal of the April 28, 2016, and June 15, 2016 cancellation notices is DISMISSED.

The May 3, 2016, eligibility determination and May 4, 2016, enrollment confirmation notices are AFFIRMED.

Your case is RETURNED to NYSOH based on closed Incidents # [REDACTED] and # [REDACTED] to reach out to your Child Health Plus plan to determine whether or not premiums were timely paid for the months in questions.

**Effective Date of this Decision:** December 9, 2016

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

This decision does not change your children's eligibility.

It does return your case to NYSOH to further investigate the issue.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

## **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:

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- By fax: 1-855-900-5557

## **Summary**

Your appeal of the April 28, 2016, and June 15, 2016 cancellation notices is **DISMISSED**.

The May 3, 2016, eligibility determination and May 4, 2016, enrollment confirmation notices are **AFFIRMED**.

Your case is **RETURNED** to NYSOH based on closed Incidents # [REDACTED] and # [REDACTED] to reach out to your Child Health Plus plan to determine whether or not premiums were timely paid for the months in questions.

This decision does not change your children's eligibility.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

## **Legal Authority**

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

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

