



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

## Notice of Decision

Decision Date: November 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009832

[REDACTED]

Dear [REDACTED],

On November 9, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 2016 notice of disenrollment and May 21, 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

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

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

Did NY State of Health (NYSOH) properly determine that your children were no longer eligible to remain enrolled in their Medicaid coverage effective May 31, 2016?

Did NYSOH properly determine that your children's enrollment in their Child Health Plus plans were effective July 1, 2016?

## Procedural History

On March 24, 2016, NYSOH issued a notice requesting "additional information to confirm eligibility" relating to your March 23, 2016 application to NYSOH for financial assistance. The notice further stated "the income information you provided does not match what NY State of Health obtained from State and Federal data sources". The notice indicated that an eligibility determination would not be made until NYSOH was "able to confirm additional information".

On April 5, 2016, you uploaded income documentation to your NYSOH account.

On April 12, 2016, NYSOH issued a notice of eligibility redetermination, based on the income information received, stating that your children were conditionally eligible for Medicaid, effective March 1, 2016. The notice further stated that you must "provide additional information in order to confirm your eligibility".

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On May 2, 2016 the income information in your NYSOH account was updated and an application was submitted on your behalf.

On May 3, 2016, NYSOH issued a notice of eligibility redetermination, based on updated income information, stating that your children were newly eligible to enroll in Child Health Plus with \$9.00 monthly premiums, effective June 1, 2016. The notice directed you to “pick a health plan” for you and your children and advised that “your current coverage will end on May 31, 2016”.

Also on May 3, 2016, NYSOH issued a notice of disenrollment stating that your children’s Medicaid fee-for-service coverage would be discontinued, effective May 31, 2016. The notice stated that your children were “no longer eligible to remain in [their] current health insurance”.

On May 21, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 20, 2016, stating that your children were enrolled in Child Health Plus plans, and that this enrollment in the plans would start July 1, 2016.

On May 23, 2016 you spoke to NYSOH’s Account Review Unit and appealed the coverage dates of your children’s Medicaid and Child Health Plus plans insofar as they did not provide coverage for the month of June 2016.

On November 9, 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 first submitted an application to NYSOH for financial assistance on March 23, 2016.
- 2) The record reflects that you and your children were found conditionally eligible for Medicaid fee-for-service coverage on April 11, 2016.
- 3) You testified, and the record reflects that you updated your NYSOH account on May 2, 2016 to report your newly obtained employment and health insurance as well as an increase in income.
- 4) You testified that you received the May 3, 2016 eligibility redetermination notice stating that your children were eligible for Child Health Plus, effective June 1, 2016. You also testified that you did not remember whether the notice directed you to pick plans or advised that your children’s Medicaid coverage was ending May 31, 2016.

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- 5) You testified, and the record reflects, that you enrolled your children into Child Health Plus plans on May 20, 2016.
- 6) You testified that you did not pick a plan for your children prior to May 20, 2016 because you had to make phone calls to your children's doctors to determine which health plans were accepted.
- 7) You testified that you are appealing only your children's dates of health insurance coverage.
- 8) You testified that your children were without health insurance coverage for the month of June 2016. You further testified that your children do not have any outstanding medical bills from this time, however you are concerned about potential penalties as a result of the 1-month gap in their insurance coverage.
- 9) You testified that your children should be covered for the month of June 2016 under the Medicaid "continuous coverage" rule.

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

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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).

### Medicaid for Children and Continuous Coverage

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

Most children determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve month period. This twelve month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that your children were no longer eligible to remain enrolled in their Medicaid coverage effective May 31, 2016.

The record reflects that you first submitted an application to NYSOH for financial assistance on March 23, 2016 and your children were found *conditionally* eligible for Medicaid, effective March 1, 2016. The April 12, 2016 eligibility redetermination notice indicated that your children's Medicaid eligibility was conditional because NYSOH needed "additional information in order to confirm your eligibility".

The record reflects that you updated your NYSOH account on May 2, 2016 wherein you reported newly obtained employment and health insurance as well as an increase in income. As a result, your children were found no longer eligible to remain in your Medicaid plans and were disenrolled effective May 31, 2016.

With regard to your contention that your children should have been covered for the month of June 2016 under the Medicaid "continuous coverage" rule, the record reflects that your children were never found fully eligible for Medicaid. Rather, as discussed above, your children were only found *conditionally* eligible for Medicaid pending receipt of additional documentation.

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The April 12, 2016 eligibility redetermination notice clearly stated that you must “provide additional information in order to confirm your eligibility”. As your children were never found fully eligible for Medicaid the “continuous coverage” rule is inapplicable. Accordingly, NYSOH properly disenrolled your children from their Medicaid coverage, effective May 31, 2016.

Therefore, the May 3, 2016 notice of disenrollment stating that your children’s enrollment in their Medicaid fee-for-service plans was terminated effective May 31, 2016 is correct and must be **AFIRMED**.

The second issue under review is whether NYSOH properly determined that your children’s enrollment in their Child Health Plus plans were effective July 1, 2016.

You testified that you received the May 3, 2016 eligibility redetermination notice indicating your children’s eligibility for Child Health Plus was effective June 1, 2016. Though you could not recall whether the notice directed you to pick plans for your children, a review of said notice establishes that it did, direct you to “pick a health plan” for your children and further advised that “[their] current coverage will end on May 31, 2016”. You testified, and the record reflects, that you did not enroll your children into Child Health Plus plans until May 20, 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 21, 2016 enrollment confirmation notice stating that your children’s enrollment in their Child Health Plus plans were effective July 1, 2016, is correct and must be **AFFIRMED**.

## **Decision**

The May 3, 2016 disenrollment notice is **AFFIRMED**.

The May 21, 2016 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** November 21, 2016

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

This decision does not change your children’s eligibility.

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 end date of your children's Medicaid coverage is May 31, 2016.

The effective date of your children's Child Health Plus plans are 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:  
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- By fax: 1-855-900-5557

### **Summary**

The May 3, 2016 disenrollment notice is **AFFIRMED**

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The May 21, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

The end date of your children's Medicaid coverage is May 31, 2016.

The effective date of your children's Child Health Plus plans are 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:**

