



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

## Notice of Decision

Decision Date: November 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010052



Dear [REDACTED]

On November 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 17, 2016 eligibility redetermination and disenrollment notices and the May 24, 2016 eligibility redetermination and enrollment confirmation notices 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).

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## Decision

Decision Date: November 25, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010052



## 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 child was disenrolled from his Child Health Plus plan effective May 31, 2016 and was not re-enrolled until July 1, 2016, resulting in a gap in coverage during the month of June 2016?

## Procedural History

According to your NYSOH account, your child was enrolled in a Child Health Plus plan beginning June 1, 2015.

On April 12, 2016, NYSOH issued a notice that it was time to renew your child's health insurance for the upcoming policy year in 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for his health coverage, and that you needed to update your NYSOH account by May 15, 2016 or your child might lose the financial assistance he was currently receiving.

No updates were made to your account by May 15, 2016.

On May 17, 2016, NYSOH issued an eligibility redetermination 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. Your child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your child's renewal within the required time frame and his eligibility was to end May 31, 2016.

On May 23, 2016, NYSOH received your child's updated application for health insurance.

On May 24, 2016, NYSOH issued a notice of eligibility redetermination, based on your May 23, 2016 application, stating that your child was eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective July 1, 2016.

Also on May 24, 2016, NYSOH issued an enrollment notice, based on your plan selection on May 23, 2016, stating that your child was enrolled in a Child Health Plus plan and his coverage would start July 1, 2016.

On June 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin June 1, 2016.

On November 22, 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) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did receive a renewal notice telling you that you needed to update your application in order to renew your child's coverage for 2016, but thought you had until the end of May 2016 to renew his coverage.
- 3) You testified that you first realized you needed to update your child's application for health insurance by May 15, 2016, when you called on May 23, 2016 to renew his coverage and the NYSOH representative advised you that he had been dis-enrolled from Child Health Plus because you missed the deadline to renew.

- 4) According to your NYSOH account, on May 23, 2016, your child's updated application for health insurance was completed.
- 5) You testified that you are seeking to have your child enrolled in his Child Health Plus plan as of June 1, 2016, not July 1, 2016.

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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR § 457.343).

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. The State of New York will furnish benefits by 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).

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents needed to verify eligibility. Children may be enrolled presumptively for two months while the missing documentation is collected (see *e.g.* 42 CFR § 457.355; SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH's request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child was dis-enrolled from his Child Health Plus plan effective May 31, 2016, and was not re-enrolled until July 1, 2016, resulting in a gap in coverage during the month of June 2016.

Your child was originally found eligible for Child Health Plus and enrolled effective June 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's April 12, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue his financial assistance for health insurance, and that you needed to supply additional information by May 15, 2016, or his financial assistance might end.

You testified that you did receive a renewal notice telling you that you needed to update your application in order to renew your child's coverage, but you mistakenly believed that you had until the end of May 2016 to complete his renewal. As a result, you did not submit an updated application by the May 15, 2016 deadline to do so.

Your child's eligibility for Child Health Plus and enrollment in his Child Health Plus plan subsequently ended on May 31, 2016.

However, under the presumptive eligibility rule, your child should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning June 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of

eligibility ends, if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation.

Since the end date of the previous 12-month policy period of your child's eligibility for and enrollment in Child Health Plus was May 31, 2016, he should have been determined presumptively eligible from June 1, 2016 through July 31, 2016, so as to avoid a gap in his Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have his eligibility determined.

Therefore, the May 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of his recertification, which you completed on May 23, 2016.

Similarly, the May 24, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of June 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of June 2016.

## **Decision**

The May 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of his recertification, which you completed on May 23, 2016.

The May 24, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of June 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of June 2016.

**Effective Date of this Decision:** November 25, 2016

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

Your child should have been given two months of Child Health Plus presumptive eligibility effective June 1, 2016.

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).

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

You will be responsible for paying the monthly premium to the Child Health Plus plan for June 2016 coverage to take effect.

### **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 notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of his recertification, which you completed on May 23, 2016.

The May 24, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of June 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of June 2016.

Your child should have been given two months of Child Health Plus presumptive eligibility effective June 1, 2016.

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

You will be responsible for paying the monthly premium to the Child Health Plus plan for June 2016 coverage to take effect.

## **Legal Authority**

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

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

