



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

## Notice of Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010125

[REDACTED]

[REDACTED]

On December 19, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's March 12, 2016 disenrollment notice, June 4, 2016 eligibility determination and 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 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: January 19, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000010125

[REDACTED]

## Issues

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

Did NY State of Health properly determine your child was no longer eligible to remain enrolled in his Child Health Plus Plan effective March 31, 2016?

Did NY State of Health properly determine that your child's Child Health Plus plan was effective July 1, 2016?

## Procedural History

On November 12, 2015, NY State of Health (NYSOH) issued an eligibility determination notice stating that your child was conditionally eligible to enroll in Child Health Plus plan at no cost effective December 1, 2015. The determination was based on the condition that you provide additional information to confirm your income by January 10, 2016.

Also on November 12, 2015, an enrollment confirmation notice was issued confirming your selection of a Child Health Plus plan on November 11, 2015.

No income documentation was provided by January 10, 2016.

On March 12, 2016, NYSOH issued an eligibility determination notice stating that your child was newly eligible to purchase a qualified health plan at full cost effective April 1, 2016. The notice stated this was because he no longer qualified for Child Health Plus because you did not provide the income information requested to confirm his eligibility.

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Also on March 12, 2016, a disenrollment notice was issued terminating your child's Child Health Plus plan effective March 31, 2016.

On June 4, 2016, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible for Child Health Plus effective July 1, 2016. The notice stated this determination was based on the condition that you provide proof of his income by August 2, 2016.

Also on June 4, 2016, NYSOH issued an enrolment confirmation notice stating that your child's enrollment on June 3, 2016, in a Child Health Plus plan for \$0.00 starting July 1, 2016.

On June 6, 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 December 19, 2016, your spouse appeared on your behalf at 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 are seeking insurance for your child.
- 2) Your spouse testified that at the time you reapplied for your child in November 2015, you were receiving notices via e-mail.
- 3) Your spouse testified she believed the notices were going to a different e-mail address than what NYSOH records were showing.
- 4) Your spouse testified you were not aware of any e-mail alerts to go into your account.
- 5) Your spouse testified that you did not receive a notice telling you that you needed to provide income documentation to confirm your child's eligibility by January 10, 2016.
- 6) The record supports no renewal notice was issued.
- 7) Your spouse testified she realized your child's application needed to be updated when she had brought him to the hospital for [REDACTED] on [REDACTED].

- 8) The record reflects that on June 3, 2016, NYSOH received your child's updated application for health insurance.
- 9) You enrolled your child in a Child Health Plus plan on June 3, 2016.
- 10) Your spouse testified that you are seeking that your child be enrolled in his Child Health Plus plan as of June 1, 2016.
- 11) The record supports you provided income documentation on July 18, 2016. See Document: [REDACTED].

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

## **Applicable Law and Regulations**

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

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).

### 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), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by 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)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your child was no longer eligible to remain enrolled in his Child Health Plus Plan effective March 31, 2016.

On November 11, 2015, NYSOH received an updated application for financial assistance for your child. As a result of this updated application your child was determined conditionally eligible to enroll in Child Health Plus at no cost effective December 1, 2015. The determination was based on the condition that you provide additional information to confirm your income by January 10, 2016.

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. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

No income documentation was received by the January 10, 2016 deadline.

As a result of not receiving any documentation to confirm your income, your child was disenrolled from his health plan effective March 31, 2016.

However, your spouse testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Your spouse testified that you did not receive any notice from NYSOH stating you needed to provide income documentation to confirm your child's eligibility by January 10, 2016. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to provide income documentation to confirm your child's eligibility.

As a result, the March 12, 2016 disenrollment notice terminating your child's Child Health Plus plan effective March 31, 2016 is RESCINDED.

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

The record indicates that you first submitted your child's updated application for health insurance on June 3, 2016 and you enrolled him back in a Child Health Plus plan that same day.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received after the 15<sup>th</sup> of the month, benefits are provided on "the first day of the subsequent month."

As previously discussed above, you first renewed your eligibility for financial assistance through NYSOH on June 3, 2016, and therefore we must assume that the information you provided at that time is the information that would have been

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used had you been timely informed of the need to update your account and confirm your income through documentation.

Therefore, the June 4, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your child in his Child Health Plus plan for the months of April, May, and June, 2016.

## **Decision**

The March 12, 2016 disenrollment notice is RESCINDED.

The June 4, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your child in his Child Health Plus Plan for the months of April, May, and June, 2016.

**Effective Date of this Decision:** January 19, 2017

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

Your child is eligible for Child Health Plus for the months of April, May, and June, 2016.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan for the months of April, May, 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

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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

### **Summary**

The March 12, 2016, disenrollment notice is RESCINDED.

The June 4, 2016, eligibility determination and enrollment confirmation notices are MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your child in his Child Health Plus Plan for the months of April, May, and June, 2016.

Your child is eligible for Child Health Plus for the months of April, May, and June, 2016.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan for the months of April, May, and June, 2016.

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## **Legal Authority**

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

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

