



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

## Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010401

[REDACTED]

Dear [REDACTED],

On January 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 22, 2016 eligibility determination 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 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.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010401

[REDACTED]

## 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's eligibility for, and enrollment in, their Child Health Plus (CHP) coverage was effective August 1, 2016?

## Procedural History

On July 8, 2015, NYSOH issued a notice of eligibility determination stating that your four children were eligible for Medicaid, effective July 1, 2015. They were subsequently enrolled into a Medicaid Managed Care (MMC) plan, with an effective date of August 1, 2015.

On December 9, 2015, your NYSOH account was updated.

On December 10, 2015, NYSOH issued a notice of eligibility determination stating that your children were no longer eligible for Medicaid, but that their Medicaid coverage would continue until June 30, 2016. The notice further stated that you needed to come back between May 16, 2016 and June 15, 2016 to update the information in your NYSOH account so that an appropriate determination as to their eligibility could be made.

On May 15, 2016, NYSOH issued a renewal notice, stating that it was time to renew your household's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial

help paying for their health coverage, and that you needed to update your account by June 15, 2016, or they might lose the financial assistance they were currently receiving.

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

On June 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. they 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 their renewal within the required time frame. Their eligibility ended effective June 30, 2016.

On June 21, 2016, NYSOH received your updated application for health insurance. That same day, NYSOH prepared a preliminary eligibility determination stating that your children were eligible for CHP, with a \$15.00 monthly premium each, effective August 1, 2016.

That same day, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as it began you're your children's CHP coverage and enrollment on August 1, 2016, and not July 1, 2016.

On June 22, 2016, NYSOH issued an eligibility redetermination notice stating that your children were eligible for CHP for a limited time, at a monthly cost of \$15.00 each, effective August 1, 2016.

Also on June 22, 2016, NYSOH issued an enrollment confirmation notice confirming your children's enrollment in a CHP plan, with an enrollment start date of August 1, 2016.

On January 10, 2017, 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) Your NYSOH account reflects that, when you created your account in June 2015, you elected to receive email alerts regarding notices issued from your NYSOH account.
- 2) You testified that you believe you were receiving notices in the regular mail, and that you do not know when or why you started receiving email alerts.

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- 3) You testified that you do not recall ever opening any email from NYSOH in the past.
- 4) You testified that you are visually impaired, so it is difficult for you to read notices on the computer, which is why you prefer to receive regular mail.
- 5) You testified that, at some point in May 2016, you received an email from NYSOH, but that it was from a “No Reply” email address, so you did not open it.
- 6) You testified that you later found out that this was the email alert regarding the renewal notice in your NYSOH account, and that the NYSOH representative you spoke to when you renewed your account in June 2016 told you that they could see that you had not read the notice in your NYSOH account.
- 7) You testified that you had spoken with your insurance carrier, Healthfirst, at some point, and that they told you that you needed to renew by July 15, 2016, so you put that date on your calendar and thought you had until that date to update your NYSOH application.
- 8) You testified that you also believed that you would not even need to do anything to renew your children’s coverage, as you had signed up for automatic renewal when you applied.
- 9) You testified that you did not find out that your children’s coverage was ending until you called NYSOH on June 21, 2016 to renew their application, and found out that the renewal deadline was June 15, 2016, and that their coverage was ending on June 30, 2016.
- 10) You testified that you requested to change your contact preferences to regular mail in June 2016, when you found out that NYSOH was only sending you emails.
- 11) The record reflects that on June 21, 2016, NYSOH received your updated application for health insurance, and your children were found eligible for CHP.
- 12) The record reflects that your children were enrolled into a CHP plan with an August 1, 2016 start date.
- 13) You testified that you do not believe you have any outstanding medical bills for your children for the month of July 2016, when they did not have coverage.

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- 14) You testified that you do not believe it is right that your children lost their insurance due to a miscommunication, and that the system should have a safety net so that this does not happen, especially for children.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

### Child Health Plus

The “period of eligibility” for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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).

### 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 issue is whether NYSOH properly determined that your children's enrollment in their CHP plan was effective August 1, 2016.

Your children were originally found eligible for Medicaid effective July 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid 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 May 15, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by June 15, 2016, or their financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their MMC plan and Medicaid coverage, effective June 30, 2016.

The record reflects that you were enrolled to receive email alerts regarding notices in your NYSOH account when you created your account in June 2015. You testified that you did not know you were receiving email alerts, and that you do not recall ever opening an email from NYSOH in the past. In addition, you testified that you recall receiving notices in the mail from NYSOH, and that you

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never wanted email alerts because you are visually impaired, and it is difficult for you to read things on the computer. Nevertheless, you acknowledged in your testimony that you received an email notice from NYSOH in May 2016 that you chose not to open because it was from a “No Reply” email address. You testified that you were not expecting to have to renew at that time, as Healthfirst had informed you that your renewal deadline was July 15, 2016, and not June 15, 2016.

Since you acknowledge receiving an email alert from NYSOH regarding the May 15, 2016 renewal notice, and since the incorrect information you were given regarding the renewal deadline was from Healthfirst, and not from NYSOH, it is concluded that NYSOH gave you the required notice that you needed to update your account so that your children would not lose coverage. The fact that you did not know that you needed to renew is not attributable to any failure or action on the part of NYSOH.

You testified, and the record confirms, that you contacted NYSOH on June 21, 2016 to renew your application, and enrolled your children into a CHP plan that same day.

The date on which a CHP 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.

You selected a CHP plan on June 21, 2016, and it properly took effect on the first day of the second following month: that is, on August 1, 2016.

Therefore, the June 22, 2016 eligibility determination and enrollment confirmation notices are AFFIRMED.

## **Decision**

The June 22, 2016 eligibility determination notice is AFFIRMED.

The June 22, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** January 30, 2017



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

Your children's eligibility for, and enrollment in, their CHP coverage and plan properly began on August 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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## **Summary**

The June 22, 2016 eligibility determination notice is AFFIRMED.

The June 22, 2016 enrollment confirmation notice is AFFIRMED.

Your children's eligibility for, and enrollment in, their CHP coverage and plan properly began on August 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:**

