



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

## Notice of Decision

Decision Date: January 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010840

[REDACTED]

Dear [REDACTED],

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's failure to enroll your child in a Child Health Plus plan issued by Fidelis Care with coverage period between February 1, 2016 and February 29, 2016.

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

Decision Date: January 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010840



## Issue

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

Did the NY State of Health (NYSOH) erred in not enrolling your child in a Child Health Plus plan for coverage between February 1, 2016 and February 29, 2016?

## Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice based on the information contained in the November 16, 2015 application. The notice stated that your child was no longer eligible for Medicaid; however, her Medicaid coverage would continue until January 31, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming your daughter's enrollment in a Medicaid Managed Care (MMC) plan. Her coverage under this plan began effective April 1, 2015, based on her previous eligibility.

On December 24, 2015, NYSOH issued a notice that it was time to renew your child'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 child would qualify for financial help paying for your health coverage, and that you needed to update your account by January 15, 2016 or you might lose the financial assistance you were currently receiving.

On December 30, 2015, NYSOH received an update to your application for health insurance.

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On December 31, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the December 30, 2015 application. The notice stated that your child was eligible to enroll in Child Health Plus for a cost of \$15.00 per month, effective February 1, 2016. The notice advised you to select a plan.

On January 20, 2016, NYSOH received an updated to your application for health insurance.

On January 21, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the January 20, 2016 application. The notice stated that your daughter was newly eligible to receive up to \$1,063.00 per month in advance payments of the premium tax credit (APTC), collectively with you and your spouse, effective March 1, 2016. The notice further stated that since your child was no longer eligible for coverage through CHP, you needed to pick a plan for your child based on her new eligibility.

On July 14, 2016, you spoke to NYSOH's Account Review Unit and appealed insofar as your child was not enrolled in a CHP plan between February 1, 2016 and February 29, 2016.

On January 5, 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) You testified that you are appealing only your child's eligibility.
- 2) Your child's eligibility for Medicaid coverage under her MMC plan ended effective January 31, 2016.
- 3) You submitted an application to NYSOH for financial assistance on December 30, 2015 after having received a renewal notice requesting that you update your account prior to January 15, 2016.
- 4) You testified that you contacted a NYSOH representative on December 30, 2015 to enroll your child into a Child Health Plan. You further testified that the NYSOH representative stated that your child had been enrolled in a Fidelis Care plan and that her coverage would begin February 1, 2016.

- 5) You testified, however, that you never received a bill from the insurance carrier that you had selected, Fidelis Care, and contacted NYSOH again to review the status of your child's enrollment. You were told that the enrollment was apparently not completed.
- 6) NYSOH notes reflect that during early to mid-February 2016, your phone conversation with the NYSOH representative was reviewed, and that representative erroneously stated that a CHP plan had been selected and your child's coverage would begin February 1, 2016.
- 7) You testified that you need your child's Child Health Plus plan to begin on February 2016 since she had incurred significant out-of-pocket medical costs during that month.
- 8) You testified that since your child turned 19 years old on [REDACTED], you had enrolled her under you and your spouse's qualified health plan effective March 1, 2016, since she was no longer eligible for CHP at that time.

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).

## **Legal Analysis**

The issue is whether NYSOH erred in not enrolling your child in a CHP plan for coverage between February 1, 2016 and February 29, 2016.

You testified that you contacted NYSOH on December 30, 2015 and, with the assistance of a NYSOH representative, enrolled your child into Fidelis as your CHP plan. You testified that you selected Fidelis as your child's CHP plan since her MMC plan coverage that concluded on January 31, 2016 was also a Fidelis plan.

The credible evidence of record reflects that despite a NYSOH representative confirming that your child had been enrolled in a CHP plan issued by Fidelis as of December 30, 2015, this was not successfully completed. Since you timely selected a plan for your child, and your child's non-enrollment in the CHP plan was due to a clear error on the part of a NYSOH representative, your child should have been enrolled in a CHP plan as of December 30, 2015.

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, your case is RETURNED to facilitate an enrollment of your child in a Fidelis Care CHP plan with coverage the period between February 1, 2016 and February 29, 2016, provided the necessary premium is paid to the insurance carrier and that you are given an adequate amount of notice and time to pay any such premium.

## **Decision**

Your child's non-enrollment in a CHP plan issued by Fidelis Care was due to the result of an error on the part of a NYSOH representative.

Your case is RETURNED to facilitate an enrollment of your child in a Fidelis Care CHP plan with coverage the period between February 1, 2016 and February 29, 2016, provided the necessary premium is remitted to the insurance carrier.

**Effective Date of this Decision:** January 25, 2017

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

The effective period of your child's CHP plan is between February 1, 2016 and February 29, 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):**

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## **Summary**

Your child's non-enrollment in a CHP plan issued by Fidelis Care was due to the result of an error on the part of a NYSOH representative.

Your case is RETURNED to facilitate an enrollment of your child in a Fidelis Care CHP plan with coverage the period between February 1, 2016 and February 29, 2016, provided the necessary premium is remitted to the insurance carrier.

The effective period of your child's CHP plan is between February 1, 2016 and February 29, 2016.

## **Legal Authority**

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



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

