



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: AP000000010855

[REDACTED]

Dear [REDACTED],

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 15, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010855

[REDACTED]

## 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's enrollment in her Child Health Plus Plan was effective August 1, 2016?

## Procedural History

On July 3, 2015, NYSOH issued an eligibility determination notice issued finding your child eligible for Medicaid effective July 1, 2015. You subsequently enrolled your child in a Medicaid Managed Care plan effective August 1, 2015.

On May 3, 2016, NYSOH issued a renewal notice, stating that it was time to renew your child's health insurance for the upcoming coverage year. That notice stated your child could not remain enrolled in her current health plan for the next coverage year and you would need to select a different health plan for her between May 16, 2016 and June 15, 2016. The notice stated your child was now eligible for coverage under Child Health Plus at a cost of \$9.00 per month effective July 1, 2016.

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

On June 17, 2016, a disenrollment notice was issued terminating your child's Medicaid Managed Care plan effective June 30, 2016.

On July 14, 2016, you enrolled your child in a Child Health Plus plan effective August 1, 2016.

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Also on July 14, 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 July 1, 2016.

On July 15, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 14, 2016, stating that your child was enrolled in a Child Health Plus plan, and her enrollment in the plan would start August 1, 2016.

On December 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) You testified that you are appealing only your child's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on July 14, 2016.
- 3) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on July 14, 2016.
- 4) You testified you never received the May 3, 2016 renewal notice.
- 5) You testified that you need your child's Child Health Plus plan to begin on July 1, 2016.
- 6) You testified you had first realized your child had been disenrolled from his Medicaid Managed Care plan when you received a call from your Doctor's billing office.
- 7) You testified you incurred medical bills in the amount of \$200.00 in the month of July, 2016 as a result of the gap in coverage of one month.
- 8) You testified you had been signed up to receive electronic e-mail alerts as notices from NYSOH.
- 9) You confirmed your correct e-mail address was provided to NYSOH.

10) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your eligibility. You also did not receive any renewal notice by regular mail.

11) You testified you were told by NYSOH representatives that e-mails were sent to you to alert you to the need to update your child's enrollment.

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 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

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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).

### 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 presented for review is whether NYSOH properly determine that your child’s enrollment in a Child Health Plus Plan was effective August 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 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 3, 2016, renewal notice explained it was time to renew your child’s health insurance for the upcoming coverage year. That notice stated your child could not remain enrolled in her current health plan for the next coverage year and that you would need to select a different health plan for her between May 16, 2016 and June 15, 2016. The notice stated your child was now eligible for coverage under Child Health Plus at a cost of \$9.00 per month effective July 1, 2016.

Because there was no timely response to this notice, you were terminated from her Medicaid Managed Care plan effective June 30, 2016.

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However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. You also testified that you were told by NYSOH representatives they had e-mailed you notifications regarding the need to update your child's application and enrollment.

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 update your account.

You first renewed your child's eligibility for financial assistance through NYSOH for the upcoming coverage year on July 14, 2016, and enrolled her in a Child Health Plus plan effective August 1, 2016, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

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

Had the information been submitted at that time between May 16, 2016 and June 15, 2016, your child's enrollment in her Child Health Plus plan would have begun on July 1, 2016.

Therefore, the July 15, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective July 1, 2016.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan for the month of July, 2016. You are responsible for any premium responsibility required by your health plan for that month.

## **Decision**

The July 15, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective July 1, 2016.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan for the month of July, 2016. You are responsible for any premium responsibility required by your health plan for that month.

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

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

The effective date of your child's Child Health Plus plan is 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:

NY State of Health Appeals  
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The July 15, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective July 1, 2016.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan for the month of July, 2016. You are responsible for any premium responsibility required by your health plan for that month.

The effective date of your child's Child Health Plus plan is 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:**

