



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: AP000000010960

[REDACTED]

[REDACTED]

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 10, 2016 eligibility determination and disenrollment 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010960



## 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 child's eligibility for and enrollment in Child Health Plus (CHP) ended effective June 30, 2016?

## Procedural History

On April 4, 2016, you updated your NYSOH application.

On April 5, 2016, NYSOH issued a notice of eligibility determination stating that your child was newly eligible to enroll in a full price CHP plan or child-only qualified health plan, effective May 1, 2016. The notice requested that you provide documentation confirming his income before June 3, 2016.

Also on April 5, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan with a \$15.00 premium per month, beginning May 1, 2016.

On June 10, 2016, NYSOH issued an eligibility determination notice stating that your child was newly eligible to purchase a qualified health plan at full cost, effective July 1, 2016. The notice further stated that your child no longer qualified for CHP because NYSOH could not verify the income listed in your application.

Also on June 10, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in his CHP plan would end effective June 30, 2016 because he was no longer eligible to remain enrolled in his current health insurance.

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On July 12, 2016, you updated your NYSOH account.

On July 13, 2016, NYSOH issued a notice of eligibility determination stating that your son was eligible for CHP for a limited time with a monthly premium of \$15.00, effective July 1, 2016. The notice stated that you were required to submit income documentation by September 10, 2016 to continue your child's eligibility.

Also on July 13, 2016, NYSOH issued a notice of enrollment confirmation, confirming your son's enrollment in a CHP plan with a \$15.00 monthly premium, beginning August 1, 2016.

On July 20, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his CHP plan in the month of July 2016.

On December 28, 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 only appealing your child's disenrollment from his CHP plan for the month of July 2016.
- 2) You testified that you do not recall receiving any requests from NYSOH for income documentation until 2016.
- 3) You testified that you were aware that you needed to submit income documentation as of April 2016, and that you faxed a copy of your 2014 tax return sometime that month, when you reapplied for coverage for your son.
- 4) You testified that you faxed your 2014 tax return because you had not yet filed your 2015 tax return, and did not file it until October 2016.
- 5) You testified that you were not aware that NYSOH had not received that fax, and that you did not have any confirmation that it was sent, as you sent it from your office.
- 6) You testified that you did not realize that your son's coverage had been terminated as of June 30, 2016 until July 2016.
- 7) You testified that you do not recall receiving the June 10, 2016 disenrollment notice.

- 8) Your NYSOH account reflects that you updated your account on July 12, 2016, and your son was re-enrolled into a CHP plan as of August 1, 2016.
- 9) Your NYSOH account reflects that you uploaded a copy of your 2014 tax return to your NYSOH account on September 14, 2016 and a copy of your 2015 tax return on October 19, 2016.
- 10) You testified that you had explained to NYSOH that your 2015 tax return was not yet available, and that you were told that your 2014 tax return could be submitted as proof of your income instead.
- 11) You testified that you prepaid your son's CHP premiums for all of 2016 at the beginning of 2016, including July's premium.
- 12) You testified that you are looking for your son's CHP coverage to be reinstated for July 2016 because you have an outstanding medical bill for that month.

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 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 (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant.

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NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)). Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP should end effective June 30, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH. When an application requests financial assistance, NYSOH must verify an applicant's household income.

If NYSOH cannot verify the household income attested to by the applicant, through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.

In the eligibility determination issued on April 5, 2016, you were advised that your child's eligibility for CHP was only conditional, and that you needed to confirm your household's income by June 3, 2016.

You testified that you were aware that you needed to submit income documentation, and that you faxed a copy of your 2014 tax return to NYSOH in April 2016. You testified that you could not fax your 2015 tax return, as you had received an extension of the filing deadline, and did not file your 2015 tax return until October 2016. You testified that you faxed the document from your office,

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and did not keep a confirmation or any record that it was sent. Your NYSOH account does not contain a copy of this fax. You testified that you were not aware that NYSOH did not receive the document, and you did not think that you needed to confirm its receipt with NYSOH, as you believed it went through.

On June 10, 2016, NYSOH issued an eligibility determination notice stating that your son was newly eligible to enroll in a full cost qualified health plan, effective July 1, 2016. The notice further stated that your son no longer qualified for CHP because NYSOH could not verify the income listed in your application. Also on June 10, 2016, NYSOH issued a notice of disenrollment stating that your child's coverage in his CHP plan would end effective June 30, 2016 because he was no longer eligible to remain enrolled in his current health insurance.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from his CHP plan was dated June 10, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of June 15, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's CHP eligibility on the 15<sup>th</sup> of the month, you would have had to update your account immediately, on that very day, to prevent a gap in coverage. The June 10, 2016 notice date did not provide sufficient time to reasonably allow you to provide the necessary income documentation in a manner that would have prevented a gap in your child's CHP coverage.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child for the month of July 2016, and the June 10, 2016 eligibility determination and disenrollment notices are RESCINDED.

## **Decision**

The June 10, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his CHP plan for the month of July 2016.

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

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

Your child should not have been terminated from his CHP plan in July 2016 for failure to submit proof of your household's income.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the month of July 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  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The June 10, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child into his CHP plan for the month of July 2016.

Your child should not have been terminated from his CHP plan in July 2016 for failure to submit proof of your household's income.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the month of July 2016.

## **Legal Authority**

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

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

