



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

## Notice of Decision

Decision Date: January 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011061

[REDACTED]

Dear [REDACTED],

On January 6, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's July 7, 2016 disenrollment notice and July 22, 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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## Decision

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## Issues

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

Did the NY State of Health properly determine that your children were disenrolled from their Child Health Plus plan effective June 30, 2016 for non-payment of premiums?

Did the NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective September 1, 2016?

## Procedural History

On February 5, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your February 4, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective March 1, 2016.

Also on February 5, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 4, 2016, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start March 1, 2016.

On July 7, 2016, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective June 30, 2016 because of non-payment of premiums.

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On July 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 21, 2016, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start September 1, 2016.

On July 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin September 1, 2016.

On January 7, 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 children's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on February 4, 2016.
- 3) You testified that you do not pay monthly premiums for your children's health insurance but instead pay their premiums two months at a time.
- 4) You testified that you were a month behind in paying your premium for June 2016, however you believed that the next payment you made should have prevented a termination in their coverage.
- 5) You testified, and the record reflects, that you reenrolled your children into a Child Health Plus plan on July 21, 2016.
- 6) You testified that you need your children's Child Health Plus plan to begin on July 1, 2016 because you incurred a medical bill in July 2016 for services rendered.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made the NY State of Health Appeals Unit (45 CFR §155.505).

### 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 first issue is whether NYSOH properly determined that your children were disenrolled from their Child Health Plus plan effective June 30, 2016 for non-payment of premiums.

On February 5, 2016, NYSOH issued a notice of enrollment stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start March 1, 2016.

On July 7, 2016, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective June 30, 2016 because of non-payment of premiums.

You testified that you do not pay monthly premiums for your children's health insurance but instead pay their premiums two months at a time. You testified that you were a month behind in paying your premium for June 2016, however you believed that the next payment you made should have prevented a termination in their coverage and that your children's policy should not have lapsed.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made the NY State of Health Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the July 8, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

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

You testified that you contacted NYSOH on July 21, 2016 and reenrolled your children into a Child Health Plus plan.

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.

Since you selected a plan for your children on July 21, 2016, the plan would have begun on the second following month after July; that is September 1, 2016.

Therefore, the July 22, 2016 enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective September 1, 2016, is correct and must be AFFIRMED.

## **Decision**

Your appeal of the July 7, 2016 disenrollment notice is DISMISSED.

The July 22, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** January 24, 2017

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

This decision does not change your children's eligibility.

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

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- By fax: 1-855-900-5557

## **Summary**

Your appeal of the July 7, 2016 disenrollment notice is DISMISSED.

The July 22, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

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

