



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

## Notice of Decision

Decision Date: February 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011244

[REDACTED]

Dear [REDACTED]

On December 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 3, 2016 eligibility redetermination 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 § 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: February 15, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011244

[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 eligibility for and enrollment in her Child Health Plus plan was effective September 1, 2016?

## Procedural History

On August 18, 2015, NY State of Health (NYSOH) issued an eligibility redetermination notice stating in relevant part that your youngest child (hereinafter, "child") was eligible for Medicaid, effective August 1, 2015.

On June 16, 2016, NYSOH issued a notice stating that it was time to renew your family's health insurance for the next yearly coverage period. The notice stated in relevant part that, based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help in paying for their health coverage, and that you needed to update your account by July 15, 2016 or your family might lose the financial assistance they were currently receiving.

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

On July 17, 2016, NYSOH issued an eligibility redetermination notice stating that your child was not eligible for Medicaid, Child Health Plus, the Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child 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

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completed the renewal within the required time frame. Your child's eligibility was to end effective July 31, 2016.

On August 2, 2016, NYSOH received your child's updated application for health insurance.

On August 3, 2016, NYSOH issued a notice of eligibility determination, based on your August 2, 2016 application, stating in relevant part, that your child was eligible to enroll in Child Health Plus (CHP) with a \$9.00 monthly premium, effective September 1, 2016.

Also on August 3, 2016, NYSOH issued a notice of enrollment, stating in relevant part, that your child's enrollment in a CHP plan would not begin until you picked a plan.

Also on August 3, 2016, you selected a CHP plan for your child.

Also on August 3, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin August 1, 2016.

On August 4, 2016, NYSOH issued a notice of enrollment, based on your plan selection of August 3, 2016, confirming that both your children (ID: [REDACTED] and ID: [REDACTED]) were enrolled in a CHP plan at a premium of \$18.00 a month, with a plan enrollment date of August 1, 2016.

On August 24, 2016, NYSOH issued a notice of enrollment, based on your plan selection of August 23, 2016, confirming that both your children were enrolled in a CHP plan at a premium of \$18.00 a month, with a plan enrollment date of August 1, 2016.

On December 29, 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) According to your NYSOH account and your testimony, you have two children with health insurance through NYSOH.
- 2) According to your NYSOH account and your testimony, this appeal involves health insurance for your youngest child.

- 3) According to your NYSOH account, your child was born on [REDACTED]
- 4) According to your NYSOH account your child was found eligible for Medicaid effective August 1, 2015.
- 5) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 6) You testified that you did not receive any electronic alerts, either by text or email, regarding any notice in your NYSOH account telling you that you needed to update your child's application in order to renew her coverage and you did not receive any notice by regular mail.
- 7) You testified that you did not know that you needed to update your account regarding your child until you took her to the doctors at the beginning of August 2016 and you were told she had health coverage with Medicaid Fee-For-Service only.
- 8) You testified that, in August 2015, when you initially added child to your NYSOH account, you were told that she would have Medicaid for a year and then be automatically added to your family plan.
- 9) The record reflects that on August 2, 2016, NYSOH received your child's updated application for health insurance.
- 10) According to your NYSOH account, her CHP plan enrollment was effective September 1, 2016.
- 11) You testified that you are seeking to have child's enrollment in her CHP plan begin August 1, 2016, too.
- 12) You testified that you have medical costs for child (ID: [REDACTED]) for the month of August 2016.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified

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individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

### 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 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 by either electronic or 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 within one day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and

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(4). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child's enrollment in her CHP plan was effective September 1, 2016.

Your child was found eligible for Medicaid effective August 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for financial assistance once every 12 months without requiring information from the individual, if it is 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 June 16, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by July 15, 2016 or any such financial assistance might end.

Because there was no timely response to this notice, your child was terminated from her Medicaid plan, effective July 31, 2016, twelve months after her original Medicaid eligibility was determined.

However, you credibly testified you did not receive e-mails telling you that the notices were available in your NYSOH account and that your health coverage was being discontinued.

Since you elected to receive communications from NYSOH electronically, NYSOH was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The June 16, 2016 eligibility determination notice was posted to your account, but the record contains no evidence that NYSOH sent the required e-mails to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

Lacking evidence to the contrary, it is concluded that you did not receive notice regarding the need for additional information to confirm your child's eligibility through NYSOH.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on August 2, 2016 and, therefore, we must assume that this 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.

As such, that portion of the August 3, 2016, eligibility redetermination notice finding that your child is eligible for CHP is MODIFIED to state that, effective August 1, 2016, your child is eligible to enroll in CHP, with a \$9.00 premium per month once you select a plan.

Therefore, the August 4, 2016 and August 24, 2016 enrollment confirmation notices are AFFIRMED insofar as they state your child was enrolled in a CHP plan, along with her sibling, an \$18.00 monthly premium, and a plan enrollment start date of August 1, 2016.

## **Decision**

The August 3, 2016 eligibility redetermination notice as it relates to your child's eligibility for CHP is MODIFIED to state that, effective August 1, 2016, she was eligible to enroll in CHP with a \$9.00 premium per month.

The August 4, 2016 and August 24, 2016 enrollment confirmation notices are AFFIRMED insofar as they state that your child was enrolled in a CHP plan, along with her sibling, an \$18.00 total monthly premium, and a plan enrollment start date of August 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

**Effective Date of this Decision:** February 15, 2017

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

Your child's eligibility for and enrollment in her CHP plan should have been effective as of August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan as of August 1, 2016.

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You are responsible for paying the health insurance premium for your child due for the month of August 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 August 3, 2016 eligibility redetermination notice as it relates to your child's eligibility for CHP is MODIFIED to state that, effective August 1, 2016, she was eligible to enroll in CHP with a \$9.00 premium per month.

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The August 4, 2016 and August 24, 2016 enrollment confirmation notices are AFFIRMED insofar as they state that your child was enrolled in a CHP plan, along with her sibling, an \$18.00 total monthly premium, and a plan enrollment start date of August 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

Your child's eligibility for and enrollment in her CHP plan should have been effective as of August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan as of August 1, 2016.

You are responsible for paying the health insurance premium for your child due for the month of August 2016.

## **Legal Authority**

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

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

