



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

## Notice of Decision

Decision Date: January 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011294

[REDACTED]

[REDACTED]

On December 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 19, 2016 cancellation notice and December 9, 2016 enrollment 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 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 18, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011294



## Issue

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

Does NY State of Health (NYSOH) have the authority to review your child's disenrollment from his Child Health Plus plan due to non-payment of premiums?

Did NYSOH properly determine that your child's CHP plan coverage is due to begin no earlier than January 1, 2017?

## Procedural History

On July 7, 2016, NYSOH issued an eligibility determination notice based on the information contained in the July 6, 2016 application. The notice stated that that your child was eligible for Child Health Plus (CHP) with a \$9.00 per month premium, effective August 1, 2016. The notice further instructed you to select a CHP plan for your child's coverage.

On August 6, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your child's coverage as of August 5, 2016. The notice stated that your child's coverage would begin effective September 1, 2016; provided, however, you must pay your child's premium before his coverage could begin. You spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan enrollment in insofar as it began effective September 1, 2016, rather than August 1, 2016.

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On October 19, 2016, NYSOH issued a cancellation notice stating that your child's CHP plan coverage was cancelled effective September 1, 2016 for non-payment of premiums.

On December 9, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your child's coverage as of December 8, 2016. The notice stated that your child's coverage would begin effective January 1, 2017.

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 support the following findings of fact:

- 1) You testified that while had originally lodged your appeal to seek a backdate of both you and child's insurance coverage to begin August 1, 2016, rather than September 1, 2016, you were no longer interested in pursuing that issue since you did not incur any out-of-pocket medical expenses during that month.
- 2) You testified that you were now seeking to appeal because you child's CHP plan coverage was cancelled effective September 1, 2016. The cancellation notice issued by NYSOH on October 19, 2016 stated that your child's coverage was cancelled for non-payment of premiums.
- 3) You testified that you don't understand why your child had been disenrolled since you never received a bill from the insurance carrier.
- 4) You testified, and the record reflects, that you reenrolled your child in a CHP plan as of December 8, 2016.
- 5) You testified that you wanted your child's CHP enrollment to no later than December 1, 2016, since you were seeking to take your child to the doctor before the end of December 2016.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

### 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 under review is whether NYSOH has the authority to review your child’s disenrollment from his CHP plan due to non-payment of premiums.

On October 19, 2016, NYSOH issued a cancellation notice stating that your child's CHP coverage was cancelled effective September 1, 2016 because of non-payment of premiums.

You testified that you were unable to pay the \$9.00 premium payment required for your child's CHP plan coverage since you had not received a bill from the insurance carrier. You further testified that you were seeking to reinstate his coverage at least as early as December 1, 2016 so that he could be insured if you decided to bring him to the doctor during the month of December 2016.

The NYSOH 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 by the NYSOH Appeals Unit.

Since the Appeals Unit is not given the authority to review the cancellation of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your child was properly terminated from his Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the October 19, 2016 cancellation notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your child's subsequent reenrollment in his CHP plan was effective January 1, 2017.

You testified, and the record reflects, that you contacted NYSOH on December 8, 2016 and reenrolled your child into a CHP plan.

The date on which a CHP 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, the December 9, 2016 enrollment notice stating that your child's enrollment in his CHP plan was effective January 1, 2017, is correct and must be **AFFIRMED**.

## **Decision**

Your appeal of the October 17, 2016 cancellation notice is **DISMISSED** as a non-appealable issue.

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).

The December 9, 2016 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** January 18, 2017

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

This Decision does not change your eligibility.

The effective date of your child's CHP plan remains January 1, 2017.

### **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**

Your appeal of the October 17, 2016 cancellation notice is **DISMISSED** as a non-appealable issue.

The December 9, 2016 enrollment notice is **AFFIRMED**.

This Decision does not change your eligibility.

The effective date of your child's CHP plan remains January 1, 2017.

## **Legal Authority**

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



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

