



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: AP000000011446

[REDACTED]

[REDACTED]

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 17, 2016 eligibility determination notice and July 20, 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 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.

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## Decision

Decision Date: January 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011446



## 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 eldest child (child) was dis-enrolled from her Child Health Plus plan effective July 31, 2016 and was not re-enrolled until September 1, 2016, resulting in a gap in coverage during the month of August 2016?

## Procedural History

On June 18, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your June 17, 2015 updated application, stating that your child was eligible for Child Health Plus effective August 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan.

On June 2, 2016, NYSOH issued a notice that it was time to renew your child's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for her health coverage, and that you needed to update your account by July 15, 2016 or your child might lose the financial assistance she was currently receiving.

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

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

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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 completed your child's renewal within the required time frame. Your child's eligibility ended July 31, 2016.

On July 19, 2016, NYSOH received your child's updated application for health insurance.

On July 20, 2016, NYSOH issued a notice of eligibility determination, based on the July 19, 2016 application, stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective September 1, 2016.

Also on July 20, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 19, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on September 1, 2016.

On August 15, 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 August 1, 2016.

On January 12, 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, and the record reflects, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did receive the June 2, 2016 renewal notice telling you that you needed to update your application in order to renew your child's coverage for 2016.
- 3) You testified that prior to July 15, 2016, you went online to renew your child's coverage for the 2016 coverage year, but instead you inadvertently created a new account and submitted a new application.
- 4) The record reflects that you created account [REDACTED] and partially completed an application for health insurance for your child.
- 5) You testified that you called NYSOH after receiving the July 17, 2016 disenrollment notice and the representative confirmed that you had created a new account and application for health insurance instead of

renewing your child's coverage. You testified that the representative advised he had fixed the issue and your child was "all set".

- 6) The record reflects that a new enrollment was submitted for your child on July 19, 2016 resulting in a September 1, 2016 start date.
- 7) You testified that you first learned your child was dis-enrolled from her plan on July 31, 2016 when you took her to the emergency room for treatment in August 2016.
- 8) You testified that you are seeking that your child be enrolled in her Child Health Plus plan as of August 1, 2016.

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

## **Applicable Law and Regulations**

### 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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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).

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents

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needed to verify eligibility. Children may be enrolled presumptively for two months while the missing documentation is collected (see *e.g.* 42 CFR § 457.355; SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH's request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your child was disenrolled from her Child Health Plus plan effective July 31, 2016 and was not re-enrolled until September 1, 2016, resulting in a gap in coverage during the month of August 2016.

Your child was found eligible for Child Health Plus and enrolled effective August 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 June 2, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by July 15, 2016, or her financial assistance might end.

You testified that you did receive the renewal notice. However, rather than renewing your child's health coverage, you inadvertently created a new account, [REDACTED]. As a result, you did not submit an updated application to the account in which your child had active health coverage, [REDACTED], prior to July 15, 2016.

The record indicates that your child was then dis-enrolled from her Child Health Plus plan because you did not respond to the renewal notice. Your child's eligibility and enrollment subsequently ended on July 31, 2016.

However, under the presumptive eligibility rule, your child should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning August 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation.

Since the end date of the previous 12 month policy period of your child's eligibility for and enrollment in Child Health Plus July 31, 2016, your children should have been determined presumptively eligible from August 1, 2016 through September 30, 2016 so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

Therefore, the July 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The July 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective as of August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her Child Health Plus for the month of August 2016.

## **Decision**

The July 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The July 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective as of August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her Child Health Plus for the month of August 2016.

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

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

Your child should have been given two months of Child Health Plus presumptive eligibility effective August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus plan 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
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## **Summary**

The July 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The July 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective as of August 1, 2016.

Your child should have been given two months of Child Health Plus presumptive eligibility effective August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus plan 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:**

