



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

## Notice of Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011888

[REDACTED]

Dear [REDACTED],

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 4, 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.

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## Decision

Decision Date: March 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011888

[REDACTED]

## 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 youngest child's eligibility for and enrollment in Child Health Plus terminated effective June 30, 2016?

## Procedural History

On February 24, 2016, your youngest child was added to your NYSOH account and an application was submitted on his behalf.

On February 25, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 per month premium effective April 1, 2016. The notice requested that you provide documentation confirming his citizenship status and Social Security number before May 24, 2016.

Also on February 25, 2016, NYSOH issued a notice confirming your youngest child's enrollment in a CHP plan, effective April 1, 2016.

On June 4, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed his citizenship status and Social Security number within the required timeframe.

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Also on June 4, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in his CHP plan would end effective June 30, 2016 because he was no longer eligible to enroll in health insurance through NYSOH.

On July 29, 2016, NYSOH received an update to your application for health insurance, which included your youngest child's Social Security number.

On July 30, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in CHP with a \$15.00 per month premium, effective September 1, 2016.

Also on July 30, 2016, NYSOH issued an enrollment notice stating that your youngest child was enrolled in a CHP plan, effective September 1, 2016.

On September 7, 2016, you spoke to NYSOH's Account Review Unit and appealed your youngest child's disenrollment from his CHP plan in the months of July and August 2016.

On February 10, 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 only appealing your youngest child's disenrollment from his CHP plan for the months of July and August 2016.
- 2) You testified, and the record reflects, that you elected to receive notice from NYSOH through regular mail.
- 3) There is nothing in your account that would indicate any notices sent to you were returned as undeliverable.
- 4) You testified that you did not receive a notice requesting that you provide documentation confirming your youngest child's citizenship status and Social Security number.
- 5) The record indicates that your youngest child was added to your NYSOH account on February 24, 2016. The application that was submitted that day indicates that he was a US Citizen but he did not have a Social Security number because you were in the process of applying for one.

- 6) You testified that you do not precisely remember when you received his Social Security number but it was earlier than July 29, 2016. You further testified that you provided this number and a copy of his card to NYSOH on two separate occasions prior to July 29, 2016.
- 7) You testified that you paid premiums for youngest child's Child Health Plus plan for the months of April, May and June 2016.
- 8) You testified that you did not know your youngest child had been disenrolled from his CHP plan until you attempted to take your him for his monthly check-up and found out his coverage had lapsed.
- 9) The record indicates that on July 29, 2016, your youngest child's Social Security number was added to your NYSOH account.

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 Child Health Plus 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 (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, 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

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to

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receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. 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)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus 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 Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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).

## **Legal Analysis**

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

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

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The record indicates that your youngest child was added to your NYSOH account on February 24, 2016. The application that was submitted that day indicates that he was a US Citizen but he did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on February 25, 2016 you were advised that your youngest child's eligibility for CHP was only conditional, and that you needed to confirm his Social Security number and citizenship status before May 24, 2016.

While you testified that you provided this number and a copy of his card to NYSOH on two separate occasions prior to July 29, 2016, the record indicates that this information did not receive the requested citizenship documentation before the May 24, 2016 deadline.

Because there was no timely response to this notice, your youngest child was disenrolled from his CHP plan effective June 30, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you that you needed to provide documentation to confirm your youngest child's citizenship status and Social Security number. Moreover, there was sufficient time to reenroll your son in his CHP plan, without interruption, had you timely responded to the June 4, 2016 notices.

The record shows that on July 29, 2016, you updated the information in your NYSOH account, which included your youngest child's Social Security number.

Therefore, NYSOH's June 4, 2016 eligibility determination and disenrollment notices are AFFIRMED because they properly ended your youngest child's CHP coverage effective June 30, 2016.

## **Decision**

The June 4, 2016 eligibility determination notice is AFFIRMED.

The June 4, 2016 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** March 9, 2017

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

Your youngest child's CHP plan coverage ended effective June 30, 2016, and resumed on 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:

- By calling the Customer Service Center at 1-855-355-5777
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## **Summary**

The June 4, 2016 eligibility determination notice is AFFIRMED.

The June 4, 2016 disenrollment notice is AFFIRMED.

Your youngest child's CHP plan coverage ended effective June 30, 2016, and resumed on 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:**

