



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

## Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012037



Dear [REDACTED],

On January 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 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 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.

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## Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012037



## Issue

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

Did the NY State of Health (NYSOH) properly determine that your child's enrollment in her Child Health Plus plan was effective November 1, 2016?

## Procedural History

On September 2, 2016, NYSOH received your initial application for health insurance.

On September 3, 2016, NYSOH issued a notice stating that your September 2, 2016 application had been received and that your daughter might be eligible for health insurance through NYSOH; however, more information was required for NYSOH to make a determination. The notice requested that you provide documentation proving your income by September 17, 2016 so that the information in your application could be confirmed.

On September 6, 2016, NYSOH received (1) four earnings statements issued to your spouse by his employer, [REDACTED], between August 12, 2016 and September 2, 2016, and (2) an unsigned letter issued by your former employer, [REDACTED], stating that you were no longer employed as of August 17, 2016 and that your employer-sponsored health insurance coverage would end effective August 18, 2016.

On September 9, 2016, NYSOH received several updates to your application for health insurance. In response, NYSOH's preliminary determination screens

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stated that, with regard to eligibility for your daughter, the information you provided does not match what the NYSOH obtained from state and federal sources, and that you must submit additional documents to confirm that the information you provided was accurate.

Also on September 9, 2016, NYSOH received (1) a duplicate set of the four earnings statements issued to your spouse by his employer, [REDACTED], between August 12, 2016 and September 2, 2016, and (2) a signed letter issued by your former employer, [REDACTED], stating that you were no longer employed as of August 17, 2016, and that your employer-sponsored health insurance coverage would end effective August 18, 2016.

On September 10, 2016, NYSOH issued a notice stating that your September 9, 2016 application had been received and that your daughter might be eligible for health insurance through NYSOH; however, more information was required for NYSOH to make a determination. The notice requested that you provide documentation proving your income by September 17, 2016 so that the information in your account could be confirmed.

On September 12, 2016, NYSOH reran your eligibility based on (1) the documentation you provided on September 6, 2016 and September 9, 2016, and (2) the information contained in your account as of September 12, 2016.

On September 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus (CHP) with a \$45.00 per month premium, effective October 1, 2016. The notice also advised you to pick a health plan for your child's coverage.

On September 16, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan as of September 16, 2016. The notice stated that your child's CHP coverage would begin effective November 1, 2016.

Also on September 16, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan coverage insofar as it began on November 1, 2016, and not October 1, 2016.

On January 9, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: e-mail correspondence between you and the Navigator reflecting for the reason for the delay of your child's CHP enrollment. The record was to be closed at the close of business on the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above referenced e-mail correspondence to the NYSOH Appeals Unit through facsimile.

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Accordingly, the record was closed on January 9, 2017.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your child's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on September 2, 2016, and later revised that application on September 9, 2016. In each case, NYSOH issued a letter requesting that you provide documentation proving your income by September 17, 2016 so that NYSOH could issue a determination.
- 3) On September 6, 2016, you provided to NYSOH four earnings statements issued to your spouse between August 12, 2016 and September 2, 2016.
- 4) On September 9, 2016, you provided a letter issued by your former employer, [REDACTED], stating that you were no longer employed as of August 17, 2016, and that your employer-sponsored health insurance coverage would end effective August 18, 2016.
- 5) Your child was found eligible for CHP effective October 1, 2016.
- 6) You testified that as a result of having difficulty accessing your NYSOH account, you contacted your Navigator, [REDACTED], and requested assistance with your child's enrollment. You further testified, and the record reflects, that on September 15, 2016 your Navigator directed you to call NYSOH as she was on vacation.
- 7) The record reflects that you enrolled your child into a CHP plan on September 16, 2016.
- 8) You testified that you need your child's CHP plan to begin on October 1, 2016 because you incurred extensive out-of-pocket medical expenses for your child's care during the month of October 2016 as the result of the delay in your child's CHP enrollment.

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” (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 issue is whether NYSOH properly determined that your child’s enrollment in her CHP plan was effective November 1, 2016.

You testified, and the record reflects, that you contacted NYSOH on September 16, 2016 and enrolled your child into a CHP plan, which resulted in an enrollment start date of November 1, 2016.

You testified that as a result of technical difficulties with accessing the messages in your NYSOH account, you requested the assistance of a Navigator to assist you. The record reflects that your child was found eligible for CHP as of September 12, 2016, effective October 1, 2016. The eligibility determination notice that was issued directed you to select a plan for your child’s coverage. You testified, and the record reflects, that you contacted your Navigator on September 15, 2016 to request an update as to your ability to select a plan for your child’s CHP coverage. The record reflects that the Navigator responded on September 15, 2016 that you needed to call NYSOH to choose the health plan.

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You testified that as a result of the Navigator not having warned you that a delay selecting your child's CHP plan beyond September 15, 2016 would result in a coverage start date delay of at least one month, beginning November 1, 2016, your child's CHP plan should to be backdated to begin no later than October 1, 2016.

While we find that the Navigator may have omitted specific details regarding the enrollment date guidelines, you were informed by the Navigator on September 15, 2016 that you needed to contact NYSOH enroll your child in a health plan. An enrollment of your child in a CHP plan on that day would have resulted in an enrollment start date of October 1, 2016. While the omission of that information is regrettable, it does not rise to the level that might permit the backdating of your child's CHP plan coverage.

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.

Therefore, the September 17, 2016 enrollment notice stating that your child's enrollment in her CHP plan was effective November 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The September 17, 2016 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** January 26, 2017

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

This decision does not change your child's eligibility.

The effective date of your child's CHP plan coverage is November 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.

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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 September 17, 2016 enrollment notice is **AFFIRMED**.

This decision does not change your child's eligibility.

The effective date of your child's CHP plan coverage is November 1, 2016.

### **Legal Authority**

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

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

