



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

## Notice of Decision

Decision Date: January 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012181

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2016 eligibility determination and the September 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.

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).

This page intentionally left blank.



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

## Decision

Decision Date: January 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012181



## 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 child was disenrolled from her Child Health Plus (CHP) plan effective September 30, 2016, and was not re-enrolled until November 1, 2016, resulting in a gap in coverage during the month of October 2016?

## Procedural History

On September 10, 2015, NYSOH issued a notice of eligibility determination, based on your September 9, 2015 application, stating that your child was eligible to enroll in CHP at full cost, effective October 1, 2015. Your child was subsequently enrolled in a CHP plan.

On August 2, 2016, NYSOH issued a notice that it was time to renew your child's health insurance. 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 September 15, 2016 or your child might lose the financial assistance she was currently receiving.

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

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

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).

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 September 30, 2016.

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

On September 20, 2016, NYSOH issued a notice of eligibility determination, based on your September 19, 2016 application, stating that your child was eligible to enroll in CHP at full cost, effective November 1, 2016.

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

On September 24, 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 October 1, 2016.

On January 18, 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 support the following findings of fact:

- 1) You testified, and your NYSOH account reflects, that you receive email alerts regarding notices issued in your NYSOH account.
- 2) You testified that you recall receiving an email alert in August 2016, but that it was well before you needed to renew your child's coverage, and it referred you to a notice in your NYSOH inbox, and did not state specifically that it was regarding a renewal notice.
- 3) You testified that you thought there would be a follow-up email or text before your child's coverage would be cut off.
- 4) You testified that you realized you needed to update your child's application for health insurance when you received a notice in September 2016, which came after the renewal deadline, stating that you needed to renew her coverage for 2017.
- 5) You testified that you had also been under the impression that you would not need to renew because you spoke to someone in June who

told you that, if nothing had changed, your child's coverage would be automatically renewed.

- 6) The record reflects that on September 19, 2016, NYSOH received your child's updated application for health insurance.
- 7) You testified that you are seeking for your child's enrollment in her CHP to begin as of October 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 CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 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).

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).

In addition, where an application for recertification of CHP 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 CHP (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 CHP plan effective September 30, 2016, and was not re-enrolled until November 1, 2016, resulting in a gap in coverage during the month of October 2016.

Your child was originally found eligible for CHP and enrolled effective October 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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 August 2, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue her financial assistance for health insurance, and that you needed to supply additional information by September 15, 2016, or her financial assistance might end.

You testified that you received an email in August regarding a notice in your NYSOH account, but that it was well before you needed to renew. You testified that you did not respond to the renewal notice that the email alerted you to, and that you thought you would receive a follow-up email or text before your child's coverage was cut off. As a result, you did not submit an updated application prior to September 15, 2016.

The record indicates that your child was then disenrolled from her CHP plan because you did not respond to the renewal notice. Your child's eligibility and enrollment subsequently ended on September 30, 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 October 1, 2016. This is because, when a child or children are being automatically recertified for CHP, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if

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).

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 twelve-month policy period of your child's eligibility for and enrollment in CHP was September 30, 2016, your child should have been determined presumptively eligible from October 1, 2016 through November 30, 2016, so as to avoid a gap in her CHP coverage for the upcoming policy period, and to allow you to submit sufficient information to have her eligibility determined.

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

The September 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP for the month of October 2016.

## **Decision**

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

The September 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP for the month of October 2016.

**Effective Date of this Decision:** January 23, 2017

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

Your child should have been given two months of CHP presumptive eligibility effective October 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the month of October 2016.

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).

## **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 September 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in CHP for two months, pending your completion of their recertification.

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 September 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP for the month of October 2016.

Your child should have been given two months of CHP presumptive eligibility effective October 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the month of October 2016.

### **Legal Authority**

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

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

