



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

### Notice of Decision

Decision Date: February 8, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012198

[REDACTED]

Dear [REDACTED],

On January 30, 2017, you and your application counselor [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's September 5, 2016 disenrollment notice, and December 19, 2016 disenrollment 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: February 8, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012198

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your child was no longer eligible to remain enrolled in his Child Health Plus plan effective September 30, 2016?

Did NY State of Health properly determine your child was no longer eligible to remain enrolled in his Child Health Plus plan effective December 31, 2016?

## Procedural History

On June 21, 2016, your newborn child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On June 22, 2016, NYSOH issued an eligibility determination, based on your June 21, 2016 application, stating that your child eligible to enroll in Child Health Plus for a limited time with a \$15.00 per month premium, effective August 1, 2016. The determination was based on the condition that you confirm your income by providing documentation before August 20, 2016.

Also on June 22, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan, effective August 1, 2016.

No income documentation was received before August 20, 2016.

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On September 4, 2016, NYSOH issued an eligibility determination notice finding your child newly eligible to purchase a qualified health plan at full cost effective October 1, 2016.

On September 5, 2016, a disenrollment notice was issued terminating your child's Child Health Plus plan effective September 30, 2016.

On September 23, 2016, NYSOH received your child's updated application for financial assistance.

On September 23, 2016, NYSOH made a preliminary eligibility determination stating that your child was conditionally eligible for Child Health Plus with a \$15.00 per month premium, effective November 1, 2016.

On September 23, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in a Child Health Plus plan insofar as it did not begin October 1, 2016.

On September 24, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus for a limited time with a \$15.00 per month premium, effective November 1, 2016. The determination was based on the condition that you confirm your income by providing documentation before November 22, 2016.

Also on September 24, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus plan effective November 1, 2016.

On October 7, 2016, you provided income documentation in the form of bank statements for your personal business. (See Document [REDACTED]).

On October 18, 2016, NYSOH representatives invalidated your submitted income documentation.

On October 19, 2016, NYSOH issued a notice stating that you needed to provide more information to confirm your child's eligibility. The notice provided a list of acceptable documents. You were asked to provide income documentation for your child by November 22, 2016.

On December 19, 2016, NYSOH issued an eligibility determination notice finding your child no longer eligible to remain enrolled in his Child Health Plus plan effective December 31, 2016 because your income could not be verified.

Also on December 19, 2016, a disenrollment notice was issued terminating your child's Child Health Plus plan effective December 31, 2016.

On December 29, 2016 NYSOH received your updated application for health insurance.

On December 30, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus for a limited time with a \$15.00 per month premium, effective February 1, 2017. The determination was based on the condition that you confirm your income by providing documentation before February 27, 2017.

Also on December 30, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus plan effective February 1, 2017.

Your telephone hearing was initially scheduled for January 19, 2017 at 3:00 pm. A Hearing Officer from the NYSOH's Appeals Unit contacted you at that time. During the call you testified you would like to have your Application Counselor available for the hearing as a witness. The Hearing Officer granted an adjournment to January 30, 2017 at 2:00 p.m.

On January 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open 15 days for you to provide the last page of your income documentation showing your business bank statements. The documentation was received in the form of a 15 pg. fax on February 2, 2017 and incorporated into the record as (Appellant's Exhibit 1).

## **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 testified, and the record reflects, that your child was born on [REDACTED]
- 3) You submitted an application to NYSOH for financial assistance on behalf of your child on June 21, 2016.
- 4) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on June 21, 2016.
- 5) You submitted income documentation to your NYSOH account on October 7, 2016.
- 6) You testified you and your spouse are self-employed.

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- 7) You testified you will be filing your 2016 taxes as married filing jointly.
- 8) You testified your annual household income for 2016 was going to be \$50,000.00.
- 9) You testified that you want your child's Child Health Plus plan to begin on October 1, 2016 because he incurred medical bills for the month he was without coverage.
- 10) You receive your notice from NYSOH via Regular U.S. Mail.
- 11) You testified you have not moved since initially applying for insurance.
- 12) Your address is correct on the June 22, and September 24, 2016 eligibility determination notices
- 13) No notices have been returned to NYSOH as undelivered as reflected in your NYSOH account.
- 14) On October 7, 2016, you provided income documentation in the form of bank statements for your personal business. (See Document [REDACTED]).
- 15) On October 18, 2016, NYSOH representatives invalidated your submitted income documentation. The reason provided was that you submitted insufficient business bank statements.
- 16) On Page 5 of 6 of the October 19, 2016 notice NYSOH issued invalidating your income documents, under Self-Employment income there is a section stating you can provide acceptable documents which are "records of detailed earnings and expenses (e.g. business bank account records, invoices and checks) for the last 3 months."
- 17) Your Application Counselor testified that you paid your Child Health Plus premium responsibility from June through December, 2016 at \$15.00 per month.
- 18) You testified in conversations with NYSOH representatives you became aware that the documents you faxed were cut off on the last page of your business's bank records. Your Application Counselor confirmed the documents were not complete.
- 19) You testified you believed you had an extension date of November 3, 2016 to provide your income documentation.

20) You testified you have not filed your 2016 tax return yet and do not have such records available.

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

## **Applicable Law and Regulations**

### Child Health Plus Effective Date - General

Child Health Plus is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

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 of 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 subsequent month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

A child who meets the eligibility requirements for CHP 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) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that your child was no longer eligible to remain enrolled in his Child Health Plus plan effective September 30, 2016.

You added your child to your account on June 21, 2016. Your child was subsequently found conditionally eligible to enroll in Child Health Plus based on the condition that you confirm your income by providing documentation before August 20, 2016.

No income documentation was received before August 20, 2016.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

NYSOH records indicate you receive all of your notices via regular U.S. Mail. You indicated that you have not moved since initially applying for financial assistance. Likewise, the June 22, 2016 eligibility determination notice was issued to your correct address.

Therefore, it is determined NYSOH gave you proper notice of the need to provide income documentation for your household by August 20, 2016.

If NYSOH does to receive the necessary documentation and remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available.

Accordingly, your child's eligibility for Child Health Plus terminated as of September 30, 2016 because you did not submit documentation to verify your income and did not adequately demonstrate that you could not provide documentation to confirm your income.

As a result, the September 5, 2016, disenrollment notice finding your child no longer eligible to remain enrolled in his Child Health Plus plan effective September 30, 2016 is AFFIRMED.

The second issue is whether NYSOH properly determined your child was no longer eligible to remain enrolled in his Child Health Plus plan effective December 31, 2016.

You updated your NYSOH account on October 7, 2016 and provided income documentation in the form of bank statements from your personal business. See

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Document [REDACTED]. NYSOH representatives invalidated your submitted income documentation on October 18, 2016 because submitted insufficient business bank statements

You testified in conversations with NYSOH representatives you became aware that the documents you faxed were cut off on the last page of your bank records. Your Application Counselor confirmed the documents were not complete. The last page of those documents had a blocked out portion over the bank records for the period of July, 2016.

As a result of the finding of insufficient documentation, NYSOH asked that you submit additional documentation to confirm your income by November 22, 2016.

NYSOH did not receive any further documentation by November 22, 2016.

If NYSOH does not receive satisfactory documentation to confirm an individual's attestation of income, NYSOH must redetermine an individual's eligibility based on the information available.

Accordingly, your child's eligibility for Child Health Plus terminated as of December 31, 2016 because you did not submit documentation to confirm the income listed in your account and did not adequately demonstrate that you could not provide documentation to confirm your income.

As a result, the December 19, 2016, disenrollment notice is AFFIRMED, as your child was no longer eligible to remain enrolled in his Child Health Plus plan effective December 31, 2016, as income documentation was not provided to confirm his eligibility.

However, you have since provided complete documentation consisting of your bank statements for your personal business (See Appellant's Exhibit 1). Your case is therefore RETURNED to NYSOH to verify this documentation in relation to your application.

## **Decision**

The September 5, 2016 and December 19, 2016 disenrollment notices are AFFIRMED.

Your case is RETURNED to NYSOH to verify your income documentation.

**Effective Date of this Decision:** February 8, 2017

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

Your child was ineligible for Child Health Plus for the months of October 2016, and January 2017.

Your child's eligibility will be redetermined based upon review of your completed income documentation by NYSOH.

## **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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The September 5, 2016 and December 19, 2016 disenrollment notices are AFFIRMED.

Your child was ineligible for Child Health Plus for the months of October 2016, and January 2017.

Your case is RETURNED to NYSOH to verify your income documentation.

Your child's eligibility will be redetermined based upon review of your completed income documentation by NYSOH.

## **Legal Authority**

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

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

