



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

## Notice of Amended Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007972 and AP000000012273

[REDACTED]

Dear [REDACTED],

On September 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 16, 2016 eligibility determination and March 17, 2016 enrollment confirmation 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 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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## Amended Decision

Decision Date: November 28, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007972 and AP000000012273

[REDACTED]

***NOTE:*** This Amended Decision is issued to include findings relative to the oldest child's eligibility for and enrollment in an Essential Plan, as raised again on appeal on September 28, 2016 in AP000000012273. Changes made herein are underscored accordingly.

## Issues

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

Did NYSOH properly determine that your eldest child's eligibility for the Essential Plan was effective April 1, 2016?

Did NYSOH properly determine that your oldest child's enrollment in her Essential Plan coverage began May 1, 2016?

Did NY State of Health (NYSOH) properly determine that your two younger children's eligibility for Child Health Plus (CHP) was effective April 1, 2016?

Did NYSOH properly determine that your two younger children's enrollment in their CHP plan coverage began on May 1, 2016?

## Procedural History

On January 2, 2016, you updated your NYSOH account.

On January 3, 2016, NYSOH issued a notice stating that your application for insurance for your children had been reviewed, but that more information was

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needed in order to make a determination as to their eligibility for health insurance. The notice directed you to submit documentation of your household income by January 18, 2016. The notice included an attachment listing acceptable types of documentation for proof of household income.

On January 11, 2016, four one-page documents were uploaded to your NYSOH account.

On January 20, 2016, you updated your NYSOH account. That same day, you also uploaded two one-page documents and a 48-page document to your NYSOH account.

Also on January 20, 2016, NYSOH issued a notice stating that you had sent in documentation, but that it was still not sufficient to make a determination. The notice directed you to submit income documentation for your husband and your oldest child. The notice included another attachment of acceptable documentation that varied from the attachment included with the January 3, 2016.

On January 21, 2016, NYSOH issued a notice stating that your application for insurance for your three children had been reviewed, but that more information was needed in order to make a determination as to their eligibility. The notice directed you to submit documentation of your household income by February 5, 2016.

On January 29, 2016, NYSOH issued a notice stating that you had sent in documentation, but that it was still not sufficient to make a determination. The notice directed you to submit income documentation for your husband.

On February 1, 2016, you uploaded three one-page documents to your NYSOH account.

On February 3, 2016, a one-page document was uploaded to your NYSOH account.

On March 11, 2016, NYSOH issued a notice stating that you had sent in documentation, but that it was still not sufficient to make a determination. The notice directed you to submit income documentation for your husband.

On March 14, 2016, you updated your NYSOH account. You also uploaded a one-page document to your NYSOH account.

On March 15, 2016, NYSOH issued a notice of eligibility determination stating that your three children were eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2016.

Also on March 15, 2016, your NYSOH account was updated.

On March 16, 2016, NYSOH issued a notice of eligibility determination, stating that your oldest child was eligible to enroll in the Essential Plan, effective April 1, 2016, and that your two youngest children were eligible to enroll in CHP each with a \$9.00 monthly premium, effective April 1, 2016.

That same day, you spoke to NYSOH's Account Review Unit and appealed the start date of your three children's respective Essential Plan and CHP eligibilities and their respective plan enrollments, insofar as they did not begin March 1, 2016.

On March 17, 2016 NYSOH issued a notice of enrollment confirmation, confirming your eldest child's enrollment in an Essential Plan and two youngest children's enrollment in a CHP plan, with enrollment start dates of May 1, 2016.

On September 1, 2016, 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) According to your NYSOH account, your children's Medicaid Managed Care coverage ended February 29, 2016.
- 2) According to your NYSOH account, you are appealing the start dates of your three children's respective 2016 eligibilities and health plan enrollments.
- 3) You submitted an application to NYSOH for financial assistance on January 2, 2016.
- 4) You testified that you submitted income documentation in a timely manner each time NYSOH requested it from you.
- 5) The record reflects that you submitted the following documentation on the following dates:
  - a. January 11, 2016:
    - i. A one-page letter from [REDACTED] stating that your oldest child was employed as a [REDACTED] for the 2015/2016 Academic Year;

- ii. Three separate documents consisting of one-page screenshots showing commissions received by your husband in October 2015, November 2015, and December 2015;
  - b. January 20, 2016:
    - i. A one-page screenshot of a spreadsheet showing business expenses and earnings for your husband for the period of September 30, 2015 through December 30, 2015;
    - ii. Another copy of the one-page letter from [REDACTED], this time with a date of January 11, 2016;
    - iii. A 48-page document consisting of a 2014 individual income tax return for you and your spouse, including a certification of electronic filing of your federal tax return on page 31;
  - c. February 1, 2016:
    - i. A one-page letter dated February 1, 2016 stating that you are unemployed and do not have an income;
    - ii. A one-page letter dated February 1, 2016 stating that your daughter [REDACTED] is a high school student and does not have an income;
    - iii. A one-page letter dated February 1, 2016 stating that your daughter [REDACTED] is a high school student and does not have an income;
  - d. February 3, 2016:
    - i. A one page screenshot of a spreadsheet showing business expenses and earnings for your husband for the months of November 2015, December 2015, and January 2016;
  - e. March 14, 2016:
    - i. A one-page document consisting of the signature page of you 2014 Form 1040, with your signature and your spouse's signature, and a date of April 15, 2015.
- 6) NYSOH's records reflect that you filed a complaint by phone with NYSOH on January 19, 2016 because documents you had submitted were invalidated by NYSOH, and you alleged that you never received a notice or call stating that you needed to submit other documentation (Incident [REDACTED]).
- 7) NYSOH's records reflect that you filed another complaint by phone with NYSOH on February 3, 2016 because you submitted a spreadsheet documenting your husband's employment income, and allegedly were not informed that it was not accepted as valid until you called to check on the status and were told then that you would need to resubmit the information broken down into months ([REDACTED]).
- 8) The record is devoid of any notices that state the specific reasons why income documentation you uploaded to your NYSOH account was invalidated and deemed insufficient.

- 9) The record reflects that, on March 10, 2016, the following note was entered into your NYSOH account by NYSOH regarding income documentation you had submitted to that point: "Invalid proof of income. [REDACTED] submitted a valid letter from employer. [REDACTED] submitted an unsigned/dated 1040, and earning expense records that aren't broken down by month. A signed and dated 2014 or 2015 1040, or detailed earning/expense records for the previous 3 months is required. due [sic] date extension not necessary."
- 10) You testified that you were prevented from enrolling your three children in health plans to give them a March 1, 2016 start date because NYSOH did not timely and properly process your documentation.
- 11) You testified that you are looking for your oldest child's Essential Plan and your two youngest children's CHP coverage to be backdated to March 1, 2016, because you would have enrolled them in time for a March 1, 2016 start date if NYSOH had timely and properly processed your income documentation.

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

## **Applicable Law and Regulations**

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### Child Health Plus

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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 first issue under review is whether NYSOH properly determined that your oldest child’s enrollment in an Essential Plan and your two younger children’s enrollment in a CHP plan were effective May 1, 2016.

The record reflects that you first contacted NYSOH to update your family’s application on January 2, 2016. NYSOH requested documentation of your household’s income in a notice dated January 3, 2016. The request contained a one page attachment listing types of acceptable income documentation. In response, over the next two months, you uploaded documentation to your NYSOH account in an attempt to provide the information that NYSOH needed to make an eligibility determination.

It is noted that, while NYSOH sent multiple notices stating that your documentation was not sufficient, none of the notices stated specifically why the documentation you had provided was not adequate. Moreover, it appears that the only time you were given specific information regarding the alleged inadequacy of the documentation was on the occasions when you initiated contact with NYSOH by phone. The notes in NYSOH’s records indicate that the last time documentation was invalidated, it was because NYSOH believed your 1040 to be unsigned. As stated in the findings of fact above, NYSOH indicated in

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its internal notes that you needed to submit either a signed and dated form 1040, or detailed earning and expense records for your spouse for the previous three months.

NYSOH considered your application to be complete on March 14, 2016 when you uploaded a signed and dated signature page from your 2014 form 1040. However, you first uploaded your complete 2014 form 1040 on January 20, 2016. A review of that document reveals that there is, on page 31, a certification of electronic filing of your federal tax return, with a return submitted date of April 15, 2015. Since the IRS does not require a written signature for electronically filed tax returns, and since there was proof in the return uploaded on January 20, 2016 that it had been electronically filed, there is no reason, and no legal basis, for NYSOH to adopt a stricter standard than the federal government with regard to deeming a tax return completed and signed.

The State of New York has provided that an individual's period of eligibility for the Essential Plan begins on the first day of the month during which the individual is eligible. The date on which enrollment in an Essential Plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

On March 16, 2016, you selected an Essential Plan for your oldest child. Ordinarily, her enrollment would properly take effect on the first day of the second month following March 2016; that is, on May 1, 2016, as stated in the March 17, 2016 notice of enrollment confirmation.

In addition, 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.

Also on March 16, 2016, you selected a CHP plan for your two younger children. Ordinarily, their enrollment would also properly take effect on the first day of the second month following March 2016; that is May 1, 2016, as stated in the March 17, 2016 notice of enrollment confirmation.

However, the record indicates that your application was complete on January 20, 2016, when you uploaded a copy of your complete 2014 tax return and, but for NYSOH deeming documentation invalid, you would have been able to select an Essential Plan for your oldest child and a CHP plan for your two younger children

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before February 15, 2016. You credibly testified that you would have done so. Therefore, it is reasonable to conclude that your children should have been eligible for the Essential Plan and CHP coverage respectively starting on the first day of the second month following January 2016; that is, on March 1, 2016.

Therefore, the March 16, 2016 eligibility determination notice is MODIFIED to state that your oldest child is eligible for the Essential Plan and your two younger children are eligible for CHP, effective March 1, 2016.

The second issue under review is whether NYSOH properly determined that your children's respective enrollment in their Essential Plan and CHP plan began on May 1, 2016.

The date on which an Essential Plan and 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.

The record reflects that your children's respective Essential Plan and CHP plans were selected on March 16, 2016. Ordinarily, this would give them a May 1, 2016 start date. However, as stated above, NYSOH erroneously invalidated your income documentation and, as a result, your children were not found eligible for the Essential Plan or CHP until March 2016. Had they been found eligible as of January 20, 2016, you testified that you would have selected an Essential Plan and CHP plan for them respectively in time for their plan coverage to start on March 1, 2016.

Therefore, the March 17, 2016 enrollment confirmation notice is MODIFIED to state that your oldest child's Essential Plan and your two youngest children's CHP plan coverage begins on March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes contained in this decision, and to facilitate the backdating of your children's respective Essential Plan and CHP plan enrollment to March 1, 2016, as is still needed, and to notify you accordingly.

## **Amended Decision**

The March 16, 2016 eligibility determination notice is MODIFIED to state that your oldest child is eligible for the Essential Plan and your two younger children are eligible for CHP, effective March 1, 2016.

The March 17, 2016 enrollment confirmation notice is MODIFIED to state that your oldest child's Essential Plan and your two youngest children's CHP plan coverage begins on March 1, 2016.

Your case is RETURNED to NYSOH to facilitate the backdating of the start date of your children's CHP plan enrollment to March 1, 2016, as is still needed, and to notify you accordingly.

**Effective Date of this Amended Decision:** November 28, 2016

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

Your oldest child should have been eligible for the Essential Plan effective March 1, 2016.

Your two younger children should have been eligible for CHP effective March 1, 2016.

The start date of your children's respective Essential Plan and CHP plan enrollment should have been March 1, 2016.

Your case is being returned to NYSOH to backdate your children's respective Essential Plan and CHP plan enrollments, as is needed, so that their coverages begin on March 1, 2016. NYSOH will notify you once this has been done.

You will be responsible for the monthly premiums owed to each child's plan for the months of March 2016 and April 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

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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 March 16, 2016 eligibility determination notice is MODIFIED to state that your oldest child is eligible for the Essential Plan and your two younger children are eligible for CHP, effective March 1, 2016.

The March 17, 2016 enrollment confirmation notice is MODIFIED to state that your oldest child's Essential Plan and your two youngest children's CHP plan coverage begins on March 1, 2016.

Your case is RETURNED to NYSOH to facilitate the backdating of the start date of your children's CHP plan enrollment to March 1, 2016, as is still needed, and to notify you accordingly.

Your oldest child should have been eligible for the Essential Plan effective March 1, 2016.

Your two younger children should have been eligible for CHP effective March 1, 2016.

The start date of your children's respective Essential Plan and CHP plan enrollment should have been March 1, 2016.

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Your case is being returned to NYSOH to backdate your children's respective Essential Plan and CHP plan enrollments, as is needed, so that their coverages begin on March 1, 2016. NYSOH will notify you once this has been done.

You will be responsible for the monthly premiums owed to each child's plan for the months of March 2016 and April 2016.

## **Legal Authority**

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

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

