



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

## Notice of Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012314

[REDACTED]

Dear [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 4, 2016 eligibility determination and September 20, 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 § 155.545.

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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012314

[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 the enrollment of your children in their Child Health Plus plan at \$30.00 per month each ended effective September 30, 2016?

## Procedural History

On June 15, 2016, NYSOH received a letter issued by [REDACTED], dated June 15, 2016, stating that you were employed as a part-time teaching artist, and that you earned \$18,175.00 in 2015.

On June 17, 2016, NYSOH issued a notice of eligibility determination, based on your June 16, 2016 application, stating that your children were eligible for Child Health Plus (CHP) for a limited time, with a \$30.00 per month premium each, effective August 1, 2016. The notice directed you to provide income documentation to confirm their eligibility before August 15, 2016. Your children were subsequently enrolled in a CHP plan.

On June 21, 2016, NYSOH issued a notice acknowledging receipt of the documents you provided to prove your income; however, the documents were found to be insufficient to resolve the request. The notice requested that you provide additional income documentation to confirm your children's eligibility, although it did not state by what date such documents were required to be sent to NYSOH.

On September 3, 2016, NYSOH redetermined your children's eligibility.

On September 4, 2016, NYSOH issued an eligibility determination notice, stating that your children were eligible for CHP at full cost or for a Child-Only qualified health plan, effective October 1, 2016. The reasoning contained in the notice on why your children were no longer eligible for subsidized CHP is incomplete.

On September 5, 2016, NYSOH issued a disenrollment notice confirming that your children had been disenrolled from their CHP plan effective September 30, 2016. The reason provided for their disenrollment was that your one of your children was the plan subscriber, and that your children must select a new plan to continue their coverage.

Also on September 5, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your children as of September 4, 2016. The notice stated that the total premium for your children's CHP plan was \$508.38 per month, with such coverage beginning October 1, 2016.

On September 19, 2016, NYSOH received an updated to your application for health insurance.

On September 20, 2016, NYSOH issued an eligibility determination notice based on the information contained in the September 19, 2016 application. The notice stated that your children were eligible for CHP for a limited time, with a \$30.00 per month premium each, effective November 1, 2016.

Also on September 20, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your children as of September 19, 2016. The notice stated that the premium cost for your children's CHP plan was \$30.00 per month each, with such coverage beginning November 1, 2016.

On September 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the end of your children's eligibility for CHP at \$30.00 per month September 30, 2016.

On January 20, 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, and your account reflects, that you receive all of your notices from NYSOH by electronic mail.

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- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to provide additional documentation by August 15, 2016 to confirm your children's eligibility, or the June 21, 2016 notice requesting that you provide additional income documentation.
- 3) You testified that you did not know that you needed to update your account until you attempted to pay your bill over the phone and were told of the \$508.38 premium, rather than a subsidized \$60.00 premium for coverage during the month of October 2016.
- 4) The record reflects that on September 19, 2016, NYSOH received your children's updated application for health insurance.
- 5) You testified that you are seeking that your children be eligible for CHP coverage at the reduced rate of \$30.00 per month each during the month of October 2016, rather than the \$508.38 premium amount.

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

## **Applicable Law and Regulations**

### Verification Process

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

### Child Health Plus

Child Health Plus (CHP) 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 (PHL) § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the federal poverty level (FPL). If the

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family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (*Id.*).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$24,250.00 for a four-person household (80 Federal Register 3236, 3237). As of the date of this decision, the 2016 FPL applies, which is \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects to receive electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children’s enrollment in their CHP plan at \$30.00 per month each was ended effective September 30, 2016.

Your children were originally found eligible for CHP for a limited time with a \$30.00 per month premium each, effective August 1, 2016. The record reflects that the July 17, 2016 eligibility determinant notice requested that you provide income documentation to confirm your income before August 15, 2016.

You testified that you did not receive this notice, nor did you receive an electronic alert regarding it, and so did not know that you were supposed to provide additional documentation in order to ensure your children’s CHP coverage at the reduced premium of \$30.00 per month each.

Because there was no timely response to this notice, your children were terminated from their Child Health Plus plan at the reduced cost of \$30.00 per month each effective September 30, 2016; however, your children were

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reenrolled in their CHP plan at full cost, \$508.38 per month total, effective October 1, 2016. The reasoning given within the September 4, 2016 eligibility determination notice and September 5, 2016 disenrollment notice why your children had been disenrolled from their CHP plan at reduced cost is inconsistent insofar as the eligibility determination notice states that their income was over the allowable limit, whereas the disenrollment notice indicated it was because one of the children was the subscriber.

In any event, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you provide income documentation to NYSOH on behalf of your children. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your children's application, or that the pertinent notices were sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your children's behalf.

You first renewed your children's application for financial assistance through NYSOH for the new coverage year on September 19, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the September 4, 2016 eligibility determination notice is MODIFIED to state that, effective October 1, 2016, your children are eligible to enroll in CHP for a limited time, with a \$30.00 premium per month each, and the September 20, 2016 enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan at \$30.00 per month each is effective October 1, 2016.

## **Decision**

The September 4, 2016 eligibility determination notice is MODIFIED to state that, effective October 1, 2016, your children are eligible to enroll in CHP for a limited time, with a \$30.00 premium per month each.

The September 20, 2016 enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan at \$30.00 per month each is effective October 1, 2016.

This decision will not affect any subsequent eligibility determination not currently under review.

**Effective Date of this Decision:** January 30, 2017

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

Your children's eligibility for and enrollment in their CHP plan at \$30.00 per month each should have been effective as of October 1, 2016

Your case is being sent back to NYSOH to reinstate your children into their CHP plan at \$30.00 per month each of October 2016, and to facilitate a reimbursement of any excess premium amounts paid to the CHP insurance carrier.

### **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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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The September 4, 2016 eligibility determination notice is MODIFIED to state that, effective October 1, 2016, your children are eligible to enroll in CHP for a limited time, with a \$30.00 premium per month each.

The September 20, 2016 enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan at \$30.00 per month each is effective October 1, 2016.

This decision will not affect any subsequent eligibility determination not currently under review.

Your children's eligibility for and enrollment in their CHP plan at \$30.00 per month each should have been effective as of October 1, 2016

Your case is being sent back to NYSOH to reinstate your children into their CHP plan at \$30.00 per month each of October 2016, and to facilitate a reimbursement of any excess premium amounts paid to the CHP insurance carrier.

## **Legal Authority**

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

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

