



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

### Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012398

[REDACTED]

Dear [REDACTED],

On January 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2016 eligibility redetermination and 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.

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: March 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012398



## Issue

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

Did the NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective November 1, 2016?

## Procedural History

On September 17, 2016, NY State of Health (NYSOH) issued an eligibility redetermination notice, based on your September 16, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$508.38 monthly premium, effective November 1, 2016.

Also on September 17, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 16, 2016, stating that your children were enrolled in a Child Health Plus plan, and coverage would start November 1, 2016.

On October 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin October 1, 2016.

On January 25, 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 that you are appealing only your children's eligibility.
- 2) You testified that you made several attempts to complete your children's application for health insurance on September 15, 2016, but were having difficulties with your computer.
- 3) You testified that when you called NYSOH on September 15, 2016, your phone call was dropped while completing the application over the telephone and when you called back you were told by the NYSOH representative that because you called so late he would not help you complete your application that day.
- 4) According to the call records of September 15, 2016, your first telephone call was made at approximately 7:00 p.m. During the call, the NYSOH representative asked you if you had time to apply over the phone, to which you responded, "Yes." Then you asked "What's quicker?" The NYSOH representative advised you that it takes an hour to complete a telephone application and that doing it yourself was faster. At that point, the NYSOH representative began to help you access your online account and while doing this, the call was dropped.
- 5) According to the second call record of September 15, 2016, you requested help accessing your account online and the NYSOH representative did state, "I cannot sit with you all night going over your user id with you," to which you responded, "Once I log in, you can go."
- 6) You submitted an application to NYSOH for financial assistance on September 16, 2016 and enrolled your children into a Child Health Plus plan on that day.
- 7) You testified that you need your children's Child Health Plus plan to begin on October 1, 2016 because you have hospital bills from that month.

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 under review is whether NYSOH properly determined that your children’s enrollment in their Child Health Plus plan was effective November 1, 2016.

You testified that you made several attempts to complete your children’s application for health insurance on September 15, 2016, but were having difficulties with your computer.

You testified and the telephone recording confirms that, when you first called NYSOH on September 15, 2016, your phone call was dropped while completing that application and when you called back you were told by the NYSOH representative that because you called so late he would not help you complete your application.

Although you may have initially believed that you were applying by telephone during your first phone call on September 15, 2016, you never advised the second NYSOH representative that you wanted to complete your application via the telephone. In fact, you advised that representative that once you were logged in, that the call could end, indicating your desire to complete your children’s application for health insurance on-line, rather than with his assistance.

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The credible evidence of record reflects that you had difficulties with your computer, restarted or resumed your children's application later in the evening of September 15, 2016, after being assisted with accessing in your on-line account by a NYSOH representative, and attempted to complete the application online alone, which resulted in you being unable to complete your children's application before September 16, 2016. Based on these circumstances, it is reasonable to conclude that this was not a mistake or error attributable to NYSOH. Therefore, the date of your children's completed application for health insurance is September 16, 2016.

According to your NYSOH account, you also selected a Child Health Plus plan for your children on September 16, 2016.

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.

Since, you selected a Child Health Plus plan for your children on September 16, 2016, their enrollment in their plan properly began the first day of the second month following September 2016; that is, as of November 1, 2016.

Therefore, the September 17, 2016 enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective November 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The September 17, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** March 7, 2017

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

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plan 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.

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 confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plan is November 1, 2016.

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## **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:**

