



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

## Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012477

[REDACTED]

Dear [REDACTED]

On February 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 6, 2016 eligibility determination and disenrollment notices, and the July 6, 2016 eligibility determination and disenrollment 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 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 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012477



## Issues

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

Did NY State of Health (NYSOH) properly determine that your children were eligible for a full-pay Child Health Plus plan for the month of July 2016?

Did NYSOH properly determine that your children were not eligible for Child Health Plus in the month of August 2016 because they were enrolled in third party health insurance?

## Procedural History

On March 22, 2016, NYSOH issued a notice of eligibility determination stating that your two children were conditionally eligible to enroll in Child Health Plus for a cost of \$15.00 per month each, effective May 1, 2016. The notice further directed you to provide documentation confirming your household income for your children before May 20, 2016.

Also on March 22, 2016, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan with a \$30.00 premium responsibility effective May 1, 2016.

Finally, on March 22, 2016, income documentation was linked to your NYSOH account for you and your spouse.

On March 29, 2016, an NYSOH representative marked your spouse's income documentation as invalid.

On March 30, 2016, NYSOH issued a notice stating that documentation you provided was not sufficient to resolve the income inconsistency in your account. The notice stated that additional information was required for your spouse to confirm eligibility.

On June 6, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a full price Child Health Plus plan or a Child-Only qualified health plan, effective July 1, 2016. The notice stated this was because federal and state data sources show that your household income was more than \$97,200.00.

Also on June 6, 2016, NYSOH issued a disenrollment notice stating that your two children were disenrolled from their Child Health Plus plan with a \$30.00 premium, effective June 30, 2016.

Finally, on June 6, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled into a Child Health Plus plan with a \$341.88 per month effective July 1, 2016.

On July 5, 2016, you updated your children's application for health insurance.

On July 6, 2016, NYSOH issued a notice of eligibility determination stating that your children were not qualified to enroll through NYSOH because sources show they were receiving "TPHI" (third party health insurance). Your children's eligibility would end effective July 31, 2016.

Also on July 6, 2016, NYSOH issued a disenrollment notice stating that their coverage through their full price Child Health Plus plan would end July 31, 2016.

On August 10, 2016, your children's application for health insurance was rerun.

On August 11, 2016, NYSOH issued a notice of eligibility stating that your children were eligible for Child Health Plus for a limited time for a cost of \$15.00 per month each, effective September 1, 2016. The notice further directed you to provide documentation confirming your household income for your children before November 8, 2016.

Also on August 11, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a Child Health Plus plan with a \$30.00 premium, effective September 1, 2016.

On October 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the termination of your children's Child Health Plus plan for the months of July and August 2016.

On February 15, 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 your children's disenrollment from their Child Health Plus plan for July and August 2016.
- 2) You testified that you received the March notices requesting income documentation.
- 3) You testified that you are employed and submitted paystubs to show your income.
- 4) You testified that your spouse is self-employed and does not receive paystubs. You submitted a three-month business ledger outlining his gross income for the months of November 2015, December 2015, and January 2016.
- 5) On March 22, 2016, NYSOH linked your paystubs and your spouse's three-month business ledger to your NYSOH account.
- 6) On March 29, 2016, an NYSOH representative invalidated your spouse's income documentation because he needed to submit "four weeks of current consecutive pay or letter from employer with gross details."
- 7) On March 30, 2016, NYSOH issued a notice requesting more income documentation to determine your spouse's eligibility. Your children's names were not listed on the notice.
- 8) On June 5, 2016, NYSOH system reran your children's eligibility and enrolled them into a full-price Child Health Plus plan.
- 9) You testified that you did not receive the June 6, 2016 notices stating that your children were no longer eligible for their \$15.00 per month Child Health Plus plan.

- 10) You testified that on July 4, 2016, you took your daughter to the doctor's office and you were informed that she no longer had insurance.
- 11) On July 5, 2016, you contacted NYSOH and your children's eligibility was redetermined.
- 12) You testified that you were told that your children were not eligible for Child Health Plus because the system was detecting other insurance coverage.
- 13) You testified that your children have not had insurance coverage outside of NYSOH since 2012.
- 14) On July 29, 2016, a letter from EmblemHealth was linked to your NYSOH account. That letter stated that your children's plan through EmblemHealth was terminated as of September 1, 2012.
- 15) On August 10, 2016, your children's eligibility was redetermined and you reenrolled them into a Child Health Plus plan.

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, 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).

### 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 first issue is whether NYSOH properly determined that your children were eligible for a full-pay Child Health Plus plan for the month of July 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.

On March 22, 2016, NYSOH issued a notice of eligibility determination stating that your two children were eligible to enroll in Child Health Plus on the condition that you provide income documentation for your household prior to May 20, 2016.

You testified that you received the notice requesting income and that you sent in what you believed to be proper income documentation to NYSOH. On March 22, 2016 NYSOH linked copies of your paystubs and your spouse’s three-month business ledger to your NYSOH account.

On March 29, 2016, an NYSOH representative invalidated your spouse’s income documentation because he needed to submit “four weeks of current consecutive pay or letter from employer with gross details.” The next day a notice was issued requesting more income documentation to determine your spouse’s eligibility.

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).

No additional income documentation was received prior to the May 20, 2016 deadline.

If NYSOH is unable to verify a household's income, they must redetermine eligibility based on the information available.

On June 5, 2016, the NYSOH system reran your children's eligibility and enrolled them into a full-price Child Health Plus plan because federal and state data sources showed that your household income was more than \$97,200.00. As a result, they were no longer eligible for a Child Health Plus plan with a \$15.00 premium each as of July 1, 2016.

However, you testified that your spouse is self-employed and does not receive paystubs. Since you submitted a three-month business ledger outlining his gross income for the months of November 2015, December 2015, and January 2016, NYSOH should not have invalidated his income because he failed to submit paystubs or a letter from his employer. Furthermore, the notice issued on March 30, 2016 saying that more income documentation was needed to determine eligibility only listed your spouse's name.

Since you submitted appropriate income documentation within the required time frame and because NYSOH did not issue proper notice stating that your children's eligibility was still in question, NYSOH improperly redetermined your children eligible for a full price Child Health Plus plan based on data sources, effective July 1, 2016.

Therefore, the June 6, 2016 eligibility determination stating that your children were eligible for a full price Child Health Plus plan and the June 6, 2016 disenrollment notice terminating their enrollment in their \$15.00 per month Child Health Plus plan are RESCINDED.

The second issue is whether NYSOH properly determined that your children were not eligible for Child Health Plus in the month of August 2016 because they were enrolled in third party health insurance.

On July 5, 2016 you contacted NYSOH and your children's eligibility was redetermined. As a result, your children were not qualified to enroll through NYSOH because sources show they were receiving third party health insurance.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to enroll or remain enrolled in a Child Health Plus plan.

However, you credibly testified that your children have not had insurance coverage outside of NYSOH since 2012. On July 29, 2016, a letter from



EmblemHealth was linked to your NYSOH account confirming that your children's prior insurance plan was terminated as of September 1, 2012.

Therefore, when NYSOH cancelled your children's eligibility for Child Health Plus plan due to them having third party health insurance, they did not, in fact, have third party health insurance and the information relied upon by NYSOH in making the determination to terminate their eligibility was incorrect.

Accordingly, the July 6, 2016 eligibility determination stating that your children do not qualify to enroll through NYSOH and the July 6, 2016 disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children in their \$15.00 per month Child Health Plus plans for the months of July and August 2016.

## **Decision**

The June 6, 2016 eligibility determination notice is RESCINDED.

The June 6, 2016 disenrollment notice is RESCINDED.

The July 6, 2016 eligibility determination notice is RESCINDED.

The July 6, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children in their \$15.00 per month Child Health Plus plans for the months of July and August 2016.

**Effective Date of this Decision:** February 22, 2017

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

NYSOH erred in terminating your children's \$15.00 Child Health Plus plans for the month of July 2016.

NYSOH improperly detected third party health insurance for your children preventing their enrollment in a Child Health Plus plan for the month of August 2016.

Your case is being sent back to NYSOH to reinstate your children in their \$15.00 per month Child Health Plus plans for the months of July and August 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 June 6, 2016 eligibility determination notice is RESCINDED.

The June 6, 2016 disenrollment notice is RESCINDED.

NYSOH erred in terminating your children's \$15.00 Child Health Plus plans for the month of July 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).

The July 6, 2016 eligibility determination notice is RESCINDED.

The July 6, 2016 disenrollment notice is RESCINDED.

NYSOH improperly detected third party health insurance for your children preventing their enrollment in a Child Health Plus plan for the month of August 2016.

Your case is RETURNED to NYSOH to reinstate your children in their \$15.00 per month Child Health Plus plans for the months of July and August 2016.

### **Legal Authority**

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

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

