



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

## Notice of Decision

Decision Date: March 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012502

[REDACTED]

Dear [REDACTED],

On January 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 2016 disenrollment notice and September 13, 2016 enrollment confirmation 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 (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 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012502



## Issue

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

Did NY State of Health properly determine that your two sons were disenrolled from their Child Health Plus plan effective August 31, 2016, and not reenrolled until October 1, 2016?

## Procedural History

On April 19, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your April 18, 2016 application, stating that your two sons were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective June 1, 2016. In the same notice your infant daughter was found conditionally eligible for Medicaid, effective April 1, 2016. The notice directed you to confirm your daughter's citizenship status and Social Security number by July 17, 2016. The notice stated that if you did not submit the requested documentation by the date above, you might be found ineligible for health insurance or for less help with your health insurance.

On April 22, 2016, NYSOH issued a notice of eligibility determination stating that your daughter was eligible for Child Health Plus for a limited time, effective June 1, 2016. The notice directed you to confirm your daughter's citizenship status and Social Security number by July 20, 2016. The notice stated that if you did not submit the requested documentation by the date above, you might be found ineligible for health insurance or for less help with your health insurance.

Also on April 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 21, 2016, stating that your three children were enrolled in a Child Health Plus plan, and that the plan enrollment would start June 1, 2016.

No documents were received by July 20, 2016.

On August 2, 2016, NYSOH issued a notice stating that your daughter was not eligible for enrollment for Medicaid, Child Health Plus, the Essential Plan, to receive premium tax credits, cost sharing reductions, nor was she eligible to purchase a qualified health plan, because you did not confirm your daughter's citizenship status or provide her Social Security number to NYSOH. The notice stated your daughter's eligibility would end effective August 31, 2016.

Also on August 2, 2016, NYSOH issued a disenrollment notice stating that your three children were disenrolled from their Child Health Plus plan effective August 31, 2016. The disenrollment notice stated that, "This is because [your daughter] is no longer eligible to enroll in health insurance through NY State of Health. Coverage for the individuals listed below [Your two sons] is ending because [your daughter] was the plan subscriber. To continue their coverage, these individuals must enroll in the same plan with a new subscriber. Or they can enroll in a new plan with a new subscriber."

Also on August 2, 2016, NYSOH issued an eligibility determination notice stating that your two sons were eligible for Child Health Plus, effective September 1, 2016.

On August 31, 2016, NYSOH issued an eligibility determination notice stating your three children were eligible for Child Health Plus, effective October 1, 2016.

On September 13, 2016, NYSOH issued a notice of enrollment confirmation stating that your three children were enrolled in a Child Health Plus plan with a start date of October 1, 2016.

On October 12, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your three children's Child Health Plus plan insofar as it did not begin on September 1, 2016.

On January 27, 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) Your appeal request on October 12, 2016 contained two issues. You indicated that you were requesting a backdate of your three children's Child Health Plus plan to September 1, 2016 and you alleged that as a result of your not having providing your daughter's Social Security number to NYSOH, your two sons were incorrectly disenrolled from their Child Health Plus plan effective August 31, 2016.
- 2) You testified at the hearing that you were no longer requesting a backdate of your daughter's Child Health Plus plan to September 1, 2016. You testified that you were late providing her citizenship status and Social Security number to NYSOH and that you did not meet the July 20, 2016 deadline. You testified that you did not provide NYSOH with that information until August 30, 2016 and that you were no longer interested in pursuing that issue.
- 3) You did testify at the hearing that you were only interested in appealing your two sons' disenrollment from their Child Health Plus plan effective August 31, 2016.
- 4) You testified that you did not receive the August 2, 2016 disenrollment notice from NYSOH that stating that your three children were disenrolled from their Child Health Plus plan.
- 5) You testified that you became aware that your two sons were disenrolled from their Child Health Plus plan when you brought your youngest son to a medical appointment and was advised that he no longer had health coverage.
- 6) You testified that you did not understand why your two sons were disenrolled from their Child Health Plus plan because you paid your children's Child Health Plus premiums at the beginning of the year for the entire year.
- 7) You testified that you contacted NYSOH and a representative advised you that as a result of your failure to timely provide NYSOH with your daughter's citizenship status and Social Security number, that your two sons were disenrolled from their Child Health Plus plan, effective August 31, 2016.
- 8) NYSOH's August 2, 2016 disenrollment notice stated that the reason that your two sons were disenrolled from their Child Health Plus plan was because your daughter was no longer eligible to enroll in health insurance

through NY State of Health. The notice also stated that coverage for your two sons in their Child Health Plus plan was ending because your daughter was the plan subscriber and that to continue their coverage, your sons were required to enroll in the same plan with a new subscriber or they could enroll in a new plan with a new subscriber.

- 9) You testified that you need your two sons' Child Health Plus plan to begin on September 1, 2016 because you incurred a medical bill for services rendered during September 2016.

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)).

## **Legal Analysis**

The issue is whether NY State of Health properly determined that your two sons were disenrolled from their Child Health Plus plan effective August 31, 2016, and were not reenrolled until October 1, 2016.

The record indicates that your three children were enrolled in a Child Health Plus plan effective June 1, 2016. Your daughter's eligibility for Child Health Plus was limited because of NYSOH's requirement that you confirm her citizenship status and Social Security number by July 20, 2016. You testified at the hearing that you did not provide NYSOH with your daughter's citizenship status and Social Security number until August 30, 2016 resulting in your daughter and your two sons' being disenrolled from their Child Health Plus plan effective August 31, 2016. When you initially filed your appeal you requested a backdate of your three children's Child Health Plus plan to September 1, 2016. However, during the hearing, you acknowledged not timely providing your daughter's citizenship status and Social Security number to NYSOH and testified that you were no longer interested in requesting a backdate of her Child Health Plus plan coverage or pursuing this issue.

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At the hearing you testified that you were only appealing your two sons' disenrollment from their Child Health Plus plan effective August 31, 2016. You credibly testified that you did not receive the August 2, 2016 disenrollment notice from NYSOH and that you did not understand why your two sons were disenrolled from their Child Health Plus plan.

You testified that you became aware that your two sons were disenrolled from their Child Health Plus plan when you brought your youngest son to a medical appointment and was advised that he no longer had health coverage. You testified that you contacted NYSOH and a representative advised you that as a result of your failure to timely provide NYSOH with your daughter's citizenship status and Social Security number, that your two sons were disenrolled from their Child Health Plus plan, effective August 31, 2016. You testified that you also did not understand your two sons' disenrollment because you paid your children's Child Health Plus premiums at the beginning of the year for the entire year.

A review of the NYSOH's August 2, 2016 disenrollment notice indicates that because your daughter was no longer eligible to enroll in health insurance through NY State of Health and she was the "plan subscriber," your sons were required to enroll in the same plan with a new subscriber or to enroll in a new plan with a new subscriber.

However, the August 2, 2016 disenrollment notice improperly interrupted Child Health Plan coverage for your two sons based on your daughter's ineligibility. A child being determined ineligible for a Child Health Plus plan should not trigger a loss of coverage for another child because they are a sibling of the ineligible child, even if the ineligible child is a "plan subscriber."

The August 2, 2016 disenrollment notice also stated that to continue their coverage, your two sons were required to enroll in the same plan with a new subscriber or they could enroll in a new plan with a new subscriber. This requirement by NYSOH incorrectly puts the burden on a child to reenroll in a plan after the Child Health Plus plan coverage has been improperly interrupted.

NYSOH records reflect that on August 2, 2016, NYSOH issued an eligibility determination notice stating that your two sons were eligible for Child Health Plus coverage, effective September 1, 2016. This notice supports a finding that NYSOH attempted to remedy the interruption in your two sons' Child Health Plus coverage by providing you with an opportunity to enroll your sons in coverage for September 2016. However, as there should not have been an interruption in Child Health Plus coverage for your two sons, this notice is insufficient to remedy NYSOH's improper disenrollment of your two sons.

There is no evidence in the record or testimony that supports an interruption of Child Health Plus coverage for your two sons. The record does not contain a

notice from NYSOH indicating that a premium payment was not received by your two sons' Child Health Plus plan. Further, your two sons did not become eligible for Medicaid, or become enrolled in third party health insurance during 2016. You have not moved outside of the state of New York in 2016. Based on your testimony and the record, no triggering event occurred that would have resulted in an interruption in your two sons' Child Health Plus coverage.

Therefore, the September 13, 2016 enrollment confirmation notice stating that your two sons' enrollment in their Child Health Plus plan was effective October 1, 2016, is incorrect and must be MODIFIED to reflect that their coverage would be resumed September 1, 2016, with no gap in coverage.

## **Decision**

The August 2, 2016 disenrollment notice is MODIFIED to reflect that your two sons' coverage in their Child Health Plus plan should not have ended effective August 31, 2016.

The September 13, 2016 enrollment confirmation notice is MODIFIED to reflect that your two sons' enrollment in their Child Health Plus plan would be effective September 1, 2016, with no gap in coverage.

Your case is RETURNED to NYSOH to ensure that your two sons have active coverage in their Child Health Plus plan for the month of September 2016.

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

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

The effective date of your two sons' Child Health Plus plan is September 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.

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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 August 2, 2016 disenrollment notice is MODIFIED to reflect that your two sons' coverage in their Child Health Plus plan should not have ended effective August 31, 2016.

The September 13, 2016 enrollment confirmation notice is MODIFIED to reflect that your two sons' enrollment in their Child Health Plus plan would be effective September 1, 2016.

Your case is RETURNED to NYSOH to ensure that your two sons have active coverage in their Child Health Plus plan for the month of September 2016.

The effective date of your two sons' Child Health Plus plan is September 1, 2016.

### **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:**

