



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: AP000000012640



Dear [REDACTED],

On March 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 7, 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 (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: AP000000012640



## Issue

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

Did the NY State of Health (NYSOH) properly determine that your child's enrollment in his Child Health Plus plan was effective no earlier than August 1, 2016?

## Procedural History

On July 7, 2016, NYSOH issued an eligibility determination notice, based on your July 6, 2016 application, stating that your child was eligible to enroll in Child Health Plus (CHP) for a limited time, with a \$60.00 monthly premium, effective August 1, 2016. Your child's eligibility for CHP was conditional pending receipt of documentation confirming his citizenship status and Social Security number by October 4, 2016.

Also on July 7, 2016, NYSOH issued an enrollment notice, based on your plan selection on July 6, 2016, stating that your child was enrolled in a CHP plan, and that this enrollment in the plan would start August 1, 2016.

On July 22, 2016, NYSOH received an update to your application for health insurance.

On July 23, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the July 22, 2016 application. The notice stated that your child was eligible to enroll in CHP, without condition, effective September 1, 2016.

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Also on July 23, 2016, NYSOH issued an enrollment notice reconfirming your selection of a CHP plan for your son as of July 23, 2016. The notice stated that your child's CHP coverage began as of August 1, 2016.

On October 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin July 1, 2016.

On March 3, 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 child's eligibility.
- 2) You testified that your child had been enrolled in a CHP plan outside of NYSOH until June 30, 2016. You further testified that you received a notice from your child's CHP plan insurance carrier, Empire BlueCross BlueShield, dated June 30, 2016, stating that your child would be disenrolled from his CHP plan effective June 30, 2016. You did not receive this notice until July 3, 2016.
- 3) You submitted your initial application to NYSOH for financial assistance on July 6, 2016.
- 4) You testified, and the record reflects, that you enrolled your child into a CHP plan on July 6, 2016.
- 5) You testified that upon enrolling your child in the CHP plan through NYSOH on July 6, 2016, the NYSOH representative assured you that your child's CHP plan start date would be backdated to July 1, 2016.
- 6) You testified that you were provided a transaction number of [REDACTED] to provide to your child's physician to ensure that your child would be covered during July 2016.
- 7) You testified that as a result of statements made by NYSOH representative, you kept your child's July 2016 appointment for a [REDACTED] [REDACTED] and was charged approximately \$200.00.
- 8) You testified that you need your child's CHP plan to begin on July 1, 2016, rather than August 1, 2016, because you were seeking to be reimbursed

for the out-of-pocket expenses you incurred in reliance upon statements made by that NYSOH representative.

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 is whether NYSOH properly determined that your child’s enrollment in his CHP plan was effective no earlier than August 1, 2016.

You testified that you contacted NYSOH on July 6, 2016 and enrolled your child into a CHP plan.

You testified that upon enrolling your child in the CHP plan through NYSOH on July 6, 2016, the NYSOH representative you spoke with assured you that your child’s CHP plan start date would be backdated to July 1, 2016.

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The date on which a CHP 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.

Therefore, the July 7, 2016 enrollment notice stating that your child's enrollment in his CHP plan was effective August 1, 2016, is correct and must be AFFIRMED.

## **Decision**

The July 7, 2016 enrollment notice is AFFIRMED.

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

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

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is August 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

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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 July 7, 2016 enrollment notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's CHP plan is August 1, 2016.

### **Legal Authority**

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

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

