



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

## Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012749

[REDACTED]

Dear [REDACTED],

On February 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 3, 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: March 08, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012749

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your child's eligibility for and enrollment in Child Health Plus terminated as of September 30, 2016?

## Procedural History

On May 13, 2016, your youngest child was added to your NYSOH account and an application was submitted on his behalf.

On May 14, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in Child Health Plus (CHP) for a limited time, with a \$60.00 per month premium effective June 1, 2016. The notice requested that you provide documentation confirming his citizenship status and Social Security number before August 11, 2016, or he might lose his eligibility to enroll in insurance or to receive financial assistance.

Also on May 14, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective June 1, 2016.

On September 3, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed his citizenship status and Social Security number within the required timeframe.

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Also on September 3, 2016 NYSOH issued a disenrollment notice stating that your child's coverage in his CHP plan would end effective September 30, 2016 because he was no longer eligible to enroll in health insurance through NYSOH.

On October 17, 2016 your child's Social Security number was added to your NYSOH account.

On October 18, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in CHP with a \$60.00 per month premium, effective December 1, 2016.

Also on October 18, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a CHP plan.

On October 24, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his CHP plan during the months October and November 2016.

On February 8, 2016, 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 the record reflects, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive an eligibility determination notice telling you that you needed to provide your child's citizenship status and Social Security number in order to maintain your child's CHP coverage for 2016. You further testified that you do not recall receiving the disenrollment notice stating that your child's coverage would end effective September 30, 2016 due to not providing the required documentation.
- 3) You testified that you realized you needed to update your child's application for health insurance during mid-October 2016 when your child's physician stated that he was no longer covered under the CHP plan.

- 4) The record reflects that on October 17, 2016, NYSOH received your child's updated application for health insurance, which included his Social Security number.
- 5) You testified that you are seeking that your child be reenrolled in their CHP plan as of October 1, 2016, rather than December 1, 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

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42

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CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 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 provided you with proper and adequate notice that your child's eligibility for and enrollment in Child Health Plus terminated as of September 30, 2016.

Your child was originally found eligible for CHP and enrolled in a plan effective June 1, 2016.

The record reflects that your child's eligibility for CHP coverage was conditional, pending the receipt documentation confirming your child's citizenship status and Social Security number before August 11, 2016. The record further reflects that no update to your account was received before August 11, 2016.

You testified that you did not receive an eligibility determination notice directing you to provide additional documentation in order to confirm your child's CHP coverage, and as a result, you did not submit an updated application prior to August 11, 2016

The record indicates that your child was then disenrolled from his CHP plan because you did not respond to the eligibility determination notice requesting the

additional documentation. Your child's eligibility and enrollment subsequently ended on September 30, 2016.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The May 14, 2016 eligibility determination notice did not indicate that your child's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your child's coverage through his Child Health Plus plan would end in the September 3, 2016 eligibility determination notice and disenrollment notice.

The record indicates that on October 17, 2016 you updated your NYSOH account and submitted an updated application for your child. You testified that you updated the account as soon as you received the notice that your child had been disenrolled from coverage.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's Child Health Plus eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until December 1, 2016.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your child for the months of October and November 2016, and the September 3, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

## **Decision**

The September 3, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child in his CHP for the months of October and November 2016.

**Effective Date of this Decision:** March 08, 2017

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

Your case is being sent back to NYSOH to reinstate your child into their CHP plan for the months of October and November 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
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## **Summary**

The September 3, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP for the months of October and November 2016.

## **Legal Authority**

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

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

