



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

## Notice of Decision

Decision Date: February 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012916

[REDACTED]

Dear [REDACTED]

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 7, 2016 disenrollment notice and October 29, 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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012916



## Issues

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

Did NY State of Health (NYSOH) properly disenroll your youngest child from their Child Health Plus plan effective September 30, 2016?

Did the NYSOH properly determine that your child's enrollment in their Child Health Plus plan was effective December 1, 2016?

## Procedural History

On June 15, 2016, NYSOH issued an eligibility determination notice, in relevant part, that your youngest child was eligible for Child Health Plus with a monthly premium of \$9.00 effective as of July 1, 2016.

Also on June 15, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that your youngest child was enrolled in a Child Health Plus plan with an enrollment start date of March 1, 2016.

On September 6, 2016, you updated your NYSOH account.

On September 7, 2016, NYSOH issued a notice stating, in relevant part, that your youngest child may be eligible for health insurance through NYSOH but more information was needed to make a determination. The notice directed you

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to submit proof of income by September 21, 2016, to confirm your child's eligibility.

Also on September 7, 2016, NYSOH issued a disenrollment notice stating, in relevant part, that your youngest child's Child Health Plus plan would end effective September 30, 2016.

On October 14, 2016, you uploaded income documentation to your NYSOH account [REDACTED]

On October 25, 2016, your NYSOH account was updated.

On October 26, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your youngest child was eligible for Child Health Plus, with a monthly premium of \$30.00, effective December 1, 2016.

On October 28, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your child's enrollment in Child Health Plus for the months of October and November 2016.

On October 29, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that your youngest child was enrolled in a Child Health Plus plan on October 28, 2016, with an enrollment start date of December 1, 2016.

On December 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing and the record was left open until to allow the Hearing Officer to request the recording of the September 6, 2016 conversation between the appellant and NYSOH's customer service. The Hearing Officer requested that NYSOH provide that recording, but NYSOH stated that the conversation was not properly recorded. The record is now complete and closed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your youngest child's eligibility for Child Health for the months of October and November 2016.
- 2) Your NYSOH account reflects, that your child was enrolled in a Child Health Plus effective March 1, 2016.
- 3) Your NYSOH account reflects that you updated your account on September 6, 2016, and attested to an expected household income of \$24,744.20.

- 4) According to your September 6, 2016, you expect to file a 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expected to claim two dependents on that return.
- 5) You testified you attempted to upload income documentation to your NYSOH account on or around September 15, 2016.
- 6) You uploaded two biweekly earnings statements to your NYSOH account on October 14, 2016. The earnings reflect that you were issued:
  - (a) \$2,788.09 in federal taxable wages on September 15, 2016, with year-to-date gross pay of \$34,525.12
  - (b) \$2,322.07 in federal taxable wages on September 29, 2016, with year-to-date gross pay of \$36,847.19.
- 7) Your youngest child was re-enrolled in a Child Health Plus plan on October 28, 2016, with an enrollment start date of December 1, 2016.
- 8) You testified that you want your child to be enrolled in the Child Health Plus plan in the months of October and November 2016 to cover the medical costs that were incurred in those months.

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

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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).

### Medicaid Eligibility for Children

In the case of an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which an initial determination or renewal of eligibility is being made, the household is the household of the taxpayer claiming such individual as a tax dependent (42 CFR § 435.603(f)(2)).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2016 FPL (81 Fed. Reg. 4036).

Children who are at least one year of age but younger than nineteen are eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Health Administrative Directive 13 OHIP/ADM-03).

### 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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly disenrolled your youngest child from their Child Health Plus plan effective September 30, 2016.

Your child was enrolled in a Child Health Plus plan effective March 1, 2016. However, on September 6, 2016, you updated the information in your NYSOH account. You attested that you expected to file a 2016 federal income tax return, with the tax status of Head of Household (with qualifying individual), and expected to claim two dependents on that return.

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When an individual expects to be claimed as a tax dependent by another taxpayer for the taxable year in which the determination is being made, the household is the household of the taxpayer claiming such individual as a tax dependent. Therefore, your youngest child was in a three-person household.

The record reflects that you updated your account on September 6, 2016, and attested to an expected household income of \$24,744.20.

A Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus. Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 154% of the FPL for the applicable family size. Since \$24,744.20 is 122.74% of the 2016 FPL for a three-person household, NYSOH properly found your youngest child to be not eligible for Child Health Plus as of September 7, 2016.

The September 7, 2016 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your youngest child's enrollment in their Child Health Plus plan was effective December 1, 2016.

On September 7, 2016, NYSOH issued a notice stating that your youngest child may be eligible for health insurance through NYSOH but more information was needed to make a determination. The notice directed you to submit proof of income by September 21, 2016, to confirm your child's eligibility.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

You testified you attempted to upload income documentation to your NYSOH account on or around September 15, 2016. However, no documentation was uploaded to your account during that time period.

The credible record supports that you uploaded two biweekly earnings statements to your NYSOH account on October 14, 2016. The documentation uploaded to your NYSOH account contained sufficient information for NYSOH to determine your youngest child's eligibility determination as of that date. Your child would have been eligible for Child Health Plus had the documentation been verified when they were provided to NYSOH.

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.

You would have selected your child's Child Health Plus plan on October 14, 2016, if the documentation was verified on that date. Therefore, the plan should be effective on the first day of the month following October 14, 2016; that is, on November 1, 2016.

The October 29, 2016, enrollment notice is MODIFIED to state that your child's Child Health Plus plan is effective November 1, 2016.

## **Decision**

The September 7, 2016 disenrollment notice is AFFIRMED.

The October 29, 2016 enrollment notice is MODIFIED to state that your child's Child Health Plus plan is effective November 1, 2016.

Your case is RETURNED to NYSOH to ensure your child is reenrolled in their Child Health Plus plan effective November 1, 2016.

**Effective Date of this Decision:** February 24, 2017

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

Your youngest child was properly disenrolled from their Child Health Plus plan effective September 30, 2016.

The effective date of your child's re-enrollment in her 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

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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 7, 2016 disenrollment notice is **AFFIRMED**.

The October 29, 2016, enrollment notice is **MODIFIED** to state that your child's Child Health Plus plan is effective November 1, 2016.

Your case is **RETURNED** to NYSOH to ensure your child is reenrolled in their Child Health Plus plan effective November 1, 2016.

Your youngest child was properly disenrolled from their Child Health Plus plan effective September 30, 2016.

The effective date of your child's re-enrollment in her Child Health Plus plan is November 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:**

