



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

### Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013005

[REDACTED]

Dear [REDACTED]

On February 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 5, 2016 disenrollment, eligibility redetermination and enrollment confirmation notices and the October 15, 2016 eligibility redetermination and enrollment confirmation 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 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: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013005

[REDACTED]

## Issues

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

Did NY State of Health properly determine that your child's eligibility for financial assistance ended effective September 30, 2016?

Did NY State of Health properly determine that your child's eligibility for and enrollment in CHP with a monthly premium of \$15.00, was effective November 1, 2016?

## Procedural History

On July 1, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your child's June 30, 2016 initial application, stating that he was eligible to enroll in a Child Health Plus (CHP) plan for a limited time, effective August 1, 2016. The notice further directed you to provide documentation confirming your income before August 29, 2016.

Also on July 1, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan with a premium of \$30.00 per month, effective August 1, 2016.

On August 19, 2016, NYSOH issued a notice of eligibility determination, based on your child's August 18, 2016 updated application, stating that he was eligible to enroll in CHP for a limited time, effective October 1, 2016. The notice further directed you to provide documentation confirming income before August 29, 2016.

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Also on August 19, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan with a premium of \$30.00 per month, effective August 1, 2016.

On September 5, 2016, NYSOH issued a notice of eligibility redetermination stating that your child was newly eligible to purchase a CHP plan at full cost, effective October 1, 2016. This was because NYSOH did not receive the income documentation needed to verify the income listed in your application.

Also on September 5, 2016, NYSOH issued a disenrollment notice stating that your child's enrollment in his CHP plan would end as of September 30, 2016, because he was no longer eligible to remain in his plan.

Also on September 5, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan with a premium of \$215.81 per month, effective October 1, 2016.

On October 15, 2016, NYSOH issued a notice of eligibility redetermination, based on your October 14, 2016 updated application, stating that your child was conditionally eligible to enroll in a CHP plan with a monthly premium of \$15.00, effective November 1, 2016.

Also on October 15, 2016, NYSOH issued a disenrollment notice stating that your child's enrollment in his CHP plan would end as of October 31, 2016.

Also on October 15, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 14, 2016, stating that your child was enrolled in a CHP plan with a monthly premium of \$15.00 effective November 1, 2016.

On November 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the loss of financial assistance for your child for the month of October 2016.

On February 7, 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, and your application indicates, that you receive all of your notices from NYSOH via regular mail.

- 2) You testified that you did receive the notices stating that your child's eligibility was only conditional and that you needed to provide documentation of your household's income.
- 3) Your NYSOH account indicates that, on September 4, 2016, your child's application was run and he was found no longer eligible for financial assistance for his CHP plan effective October 1, 2016.
- 4) You testified that you did not receive the September 5, 2016 notices stating that your child was terminated from his financial assistance for CHP.
- 5) You testified that you did not know that your child's insurance was a full cost plan until you had to pay an outstanding balance to the health plan in November 2016.
- 6) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 7) You submitted income documentation to NYSOH on November 1, 2016.
- 8) You testified that you are seeking to have your child's financial assistance in his Child Health Plan backdated to October 1, 2016, so that you may get a refund of the premium you paid for the month of October 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 Verification Process

A child who meets the eligibility requirements for CHP 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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).

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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 CHP 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 CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP 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 CHP 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 under review is whether NYSOH properly determined that your child’s eligibility for financial assistance ended effective September 30, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household’s projected annual income. For individuals seeking enrollment in the CHP plan, NYSOH must request income data from federal data sources in order to verify an individual’s income attestation.

If NYSOH cannot verify an individual’s attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on July 1, 2016, you were advised that your child was eligible for CHP for a limited time, and that you needed to confirm your household's income before August 29, 2016.

You testified that you did receive the notices from NYSOH telling you that you needed to provide income documentation to confirm your child's eligibility. However, you testified that you did not receive the September 5, 2016 disenrollment, eligibility redetermination and enrollment confirmation notices, stating in part that your child was no longer receiving financial assistance to help pay for his CHP plan.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you of an inconsistency in your account and that documentation was needed to confirm the income you listed in the account and that your child lost his financial assistance.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

You initially submitted proof of income on November 1, 2016, which is 122 days after you were notified of the inconsistency and over two weeks after you reapplied for your child's financial assistance in October 2016.

Accordingly, your child's eligibility for CHP terminated as of September 30, 2016 because you did not submit the requisite income documentation and did not adequately demonstrate that you could not provide documentation to confirm your income.

Therefore, the September 5, 2016 disenrollment notice, eligibility redetermination and enrollment confirmation notices are AFFIRMED.

The second issue is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP with a monthly premium of \$15.00, was effective November 1, 2016.

You testified, and your account confirms, that you updated your child's NYSOH application on October 14, 2016. That day, you selected a CHP plan and confirmed your child's enrollment.

The date on which enrollment in a CHP plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

Since you selected a CHP plan for your child on October 14, 2016, his enrollment would properly take effect on the first day of the month following October 2016; that is, on November 1, 2016.

Therefore, the October 15, 2016 eligibility redetermination and enrollment confirmation notices stating that your child's eligibility for CHP and enrollment in a CHP plan with a premium of \$15.00 per month were effective November 1, 2016, are correct and must be AFFIRMED.

## **Decision**

The September 5, 2016 disenrollment notice, eligibility redetermination and enrollment confirmation notices are AFFIRMED.

The October 15, 2016 eligibility redetermination and enrollment confirmation notices stating that your child's eligibility for CHP and enrollment in a CHP plan with a premium of \$15.00 per month were effective November 1, 2016, are AFFIRMED.

**Effective Date of this Decision:** February 28, 2017

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

NYSOH properly found your child ineligible for financial assistance effective October 1, 2016 because you did not provide documentation of your household's income.

NYSOH properly found that your child's reenrollment in CHP with financial assistance was effective 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.

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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 September 5, 2016 disenrollment notice, eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

The October 15, 2016 eligibility redetermination and enrollment confirmation notices stating that your child's eligibility for CHP and enrollment in a CHP plan with a premium of \$15.00 per month were effective November 1, 2016, are **AFFIRMED**.

NYSOH properly found your child ineligible for financial assistance effective October 1, 2016 because you did not provide documentation of your household's income.

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NYSOH properly found that your child's reenrollment in CHP with financial assistance was effective 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:**

