

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

## Notice of Decision

Decision Date: March 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013017

[REDACTED]

Dear [REDACTED]

On February 6, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's November 3, 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 at the top of this letter.

### Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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

## Decision

Decision Date: March 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013017

[REDACTED]

## Issue

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

Did New York State of Health (NYSOH) properly determine that your children's Child Health Plus plan should have an enrollment start date of December 1, 2016?

## Procedural History

On October 6, 2015, NYSOH issued an enrollment notice confirming that your children were enrolled in a Child Health Plus plan with an enrollment start date of November 1, 2015.

On September 2, 2016, NYSOH issued a notice stating that they did not have enough information from federal and state data sources to determine if your children could get help paying for health insurance or what kind of coverage your children could have for next year. The notice directed you to return to your account by October 15, 2016 to provide more information or the financial assistance you were receiving may end.

On October 17, 2016, NYSOH issued a disenrollment notice stating, in relevant part, that your children's Child Health Plus coverage, with UnitedHealthcare Community Plan, would end October 31, 2016.

On October 18, 2016 NYSOH issued a notice of eligibility determination stating that your children were not eligible for Medicaid, Child Health Plus, receive tax credits or cost-sharing reductions, or enroll in a qualified health plan at full cost because you did not complete your renewal within the required timeframe. The notice states that their eligibility would end effective November 1, 2016.

On November 2, 2016, your NYSOH account was updated.

Also on November 2, 2016 you spoke to the NYSOH's Account Review Unit and requested an appeal insofar as the enrollment start date of your children's health insurance coverage.

On November 3, 2016 NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in Child Health Plus, with a monthly premium of \$9.00, effective December 1, 2016.

Also on November 3, 2016 NYSOH issued an enrollment notice, in relevant part, confirming that on November 2, 2016 your children were enrolled in Child Health Plus with a plan enrollment start date of December 1, 2016.

On February 6, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

## **Findings of Fact**

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

1. You are applying for health insurance for your two children, ages three and eight.
2. According to your NYSOH account, your children were initially enrolled in a Child Health Plus health plan through NYSOH effective November 1, 2015.
3. You testified that your children had a doctor's appointment on [REDACTED] [REDACTED] Subsequent to the appointment, you were notified by the doctor's office that your children's coverage had been cancelled.
4. You testified that you contacted NYSOH and was informed that you should have received an electronic renewal notice.
5. You testified that you did not receive any notice from NYSOH regarding the need to renew your children's information to ensure that your children's coverage would not be interrupted.
6. You testified that you did not receive any emails prompting you to review any notices that were uploaded to your NYSOH account.
7. According to your NYSOH account, you re-enrolled your children in a Child Health Plus plan on November 2, 2016.

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8. You testified that you are seeking to have your children's coverage to start on November 1, 2016, to cover the \$210.00 in medical expenses that were incurred because your children were not enrolled in a health plan.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Child Health Plus Renewal:

In general, the NYSOH must review Child Health Plus eligibility once every twelve months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). The 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" (42 CFR § 435.916(a)(2), 42 CFR § 457.343).

The NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

### Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

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(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918, 42 CFR § 457.110(a)(1)).

### Child Health Plus

“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 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 properly determined that your children’s Child Health Plus enrollment start date should be December 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's September 2, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by October 15, 2016 or any such financial assistance might end.

Because there was no timely response to this notice, your children’s coverage through Child Health Plus plan was terminated effective November 1, 2016.

However, the record reflects that you initially elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to update your account.

You first renewed your children's eligibility for financial assistance through NYSOH for the new coverage year on November 2, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Accordingly, the November 3, 2016 enrollment notice is MODIFIED to state that your children's Child Health Plus plan enrollment start date is November 1, 2016.

## **Decision**

The November 3, 2016 enrollment notice is MODIFIED to state that your children's Child Health Plus plan enrollment start date is November 1, 2016.

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

## **How this Decision Affects Eligibility**

Your children were eligible to be enrolled in Child Health Plus health plan effective November 1, 2016.

You will be responsible to pay the November 2016 health insurance premium, if you have not done so already.

## **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 after the date 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 date 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 November 3, 2016 enrollment notice is MODIFIED to state that your children's Child Health Plus plan enrollment start date is November 1, 2016.

Your children were eligible to be enrolled in Child Health Plus health plan effective November 1, 2016.

You will be responsible to pay the November 2016 health insurance premium, if you have not done so already.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).



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

