



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 Number: [REDACTED]  
Appeal Identification Number: AP000000013317

[REDACTED]

Dear [REDACTED]

On March 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 12, 2016 eligibility determination and November 17, 2016 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 28, 2017

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000013317



## Issues

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

Did NY State of Health (NYSOH) properly determine that your child's coverage through Child Health Plus (CHP) ended on July 31, 2016?

Did NYSOH properly determine that your child's eligibility for, and enrollment in, his CHP coverage began as of December 1, 2016?

## Procedural History

On August 25, 2015, NYSOH received your household's application for health insurance.

On August 26, 2015, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in CHP with a \$15.00 monthly premium, effective October 1, 2015.

Also on August 26, 2015, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in a CHP plan, and stating that, if you paid the first month's premium, his coverage could begin as early as October 1, 2015.

On June 28, 2016, your NYSOH application was updated.

On June 29, 2016, NYSOH issued a notice stating that your June 28, 2016 application had been reviewed, but that more information was needed in order to

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make a determination as to your child's eligibility for health insurance. The notice directed you to submit documentation of your son's income by July 13, 2016.

On June 30, 2016, your NYSOH application was updated again.

On July 9, 2016, NYSOH issued a notice stating that your June 9, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your and your child's eligibility for health insurance. The notice directed you to submit documentation of your child's income by July 13, 2016, and of your income by July 23, 2016.

Also on July 9, 2016, NYSOH issued a disenrollment notice stating that your child's enrollment in his CHP plan was ending, effective July 31, 2016.

On July 11, 2016, documentation was uploaded to your NYSOH account.

On August 16, 2016, NYSOH issued a notice stating that your July 29, 2016 application had been reviewed, but that NYSOH was unable to process a determination at that time with regards to your eligibility. The notice directed you to contact NYSOH by August 31, 2016 to review the information in your application.

On August 26, 2016, NYSOH issued notice stating that your July 26, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your and your child's eligibility. The notice directed you to provide documentation of your and your child's income by September 9, 2016.

On August 31, 2016, you faxed documentation to NYSOH, which was uploaded by NYSOH to your account on September 3, 2016.

On September 10, 2016, NYSOH issued a notice stating that the documentation you provided did not confirm the information in your application. The notice stated that you needed to provide proof of your and your child's income by September 24, 2016.

On September 15, 2016, your NYSOH application was updated.

On September 16, 2016, NYSOH issued a notice stating that your September 14, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your and your child's eligibility. The notice directed you to submit income documentation by September 24, 2016.

Also on September 16, 2016, documentation was uploaded to your NYSOH account.

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On September 22, 2016, NYSOH uploaded documentation to your NYSOH account consisting of documents that had been mailed to NYSOH on your behalf, and that were received by NYSOH on August 11, 2016.

On November 12, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible for CHP with a \$9.00 monthly premium, effective December 1, 2016.

On November 16, 2016, you spoke to NYSOH's Account Review Unit and appealed the gap in coverage your child experienced from his disenrollment and reenrollment into CHP.

On November 17, 2016, NYSOH issued a notice of enrollment confirmation confirming your child's enrollment in a CHP plan, with a plan start date of December 1, 2016.

On March 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 the record reflects, that you are appealing only your child's eligibility.
- 2) Your NYSOH account reflects that your child was enrolled into a CHP plan as of October 1, 2015.
- 3) You testified that you updated your NYSOH application in June 2016 because you had a hospital bill for yourself from March 2016, and the hospital informed you that they could not consider providing financial assistance unless you first applied for Medicaid.
- 4) You testified that you went to a local hospital and received assistance from an application counselor at that hospital with your June 2016 application.
- 5) You testified that you provided the application counselor with information, including copies of paystubs from both of your jobs, and the application counselor updated your NYSOH application for you.

- 6) You testified that you do not know why the application counselor listed less than \$10,000.00 in income on your June 28, 2016 application, as you provided her with documentation showing that you made more than that.
- 7) You testified that you have two jobs, and that both of them vary with regard to the hours, as one is busy during tax season, and the other is at a college and slows down during the summer.
- 8) You testified that both of your jobs pay you on a biweekly basis.
- 9) You testified that no one told you that there was a problem with any of the income documentation that you submitted, or how the documentation was insufficient.
- 10) You testified that you found out that your child's coverage had been terminated when you received the notice from NYSOH, and you did not understand why, as you had paid every monthly premium.
- 11) You testified that, when you spoke with NYSOH about the fact that your child's coverage had been cancelled and that you had not been able to get it reinstated, you were told by several NYSOH representatives that there was some sort of encryption problem that lasted from June through November 2016.
- 12) You testified that you had to take your child to the emergency room in August 2016, and that you have an outstanding bill as a result of the fact that he did not have coverage in that month.
- 13) On August 31, 2016, documentation was faxed to NYSOH on your behalf, and uploaded to your NYSOH account on September 3, 2016. The documentation consisted of the following:
  - a. A fax cover sheet explaining that you do not have a paystub for the period ending 8/18/16 from [REDACTED] because you did not work at the job during that pay period;
  - b. Two pages consisting of two [REDACTED] biweekly paystubs for the following dates and amounts:
    - i. August 5, 2016 - \$477.66;
    - ii. August 19, 2016 - \$478.98;
  - c. Two pages consisting of two [REDACTED] paystubs for the following dates and amounts:
    - i. July 21, 2016 - \$48.00;
    - ii. August 4, 2016 - \$273.00

(Documents [REDACTED] and [REDACTED]).

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 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 (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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 PHL § 2511(2)(a)-(e)).

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP 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 CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)). Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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## Legal Analysis

The first issue under review is whether NYSOH properly determined that your child's enrollment in his CHP coverage ended effective July 31, 2016.

On August 26, 2015, NYSOH issued a notice of eligibility determination for an application submitted for your child on August 25, 2015. It stated that, effective October 1, 2015, your child could enroll through CHP with a premium of \$15.00 per month. That eligibility determination has not been appealed and is not under review here.

Since the period of your child's CHP eligibility began on October 1, 2015, it should have continued until September 30, 2016, unless an event occurred to disqualify him from CHP eligibility. The record does not indicate that any CHP premiums were not timely paid, that your child has gained access to or obtained other health insurance, or that your child became eligible for Medicaid. The record confirms that he continued to reside in New York State.

On June 28, 2016, your NYSOH application was updated, and the amount of income that was listed appears to have caused you and your child to be placed into a "pending Medicaid" status. However, your son was never found to be eligible for Medicaid between the time you updated the application, and the expiration of your child's twelve-month period of CHP eligibility.

As no event occurred to end his eligibility, your child's CHP coverage should not have ended until the end of his twelve-month coverage period, which was September 30, 2016.

Therefore, the July 9, 2016 disenrollment notice, stating that your child's CHP coverage ended on July 31, 2016, is MODIFIED to state that his CHP coverage terminated effective September 30, 2016.

The second issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP did not begin until December 1, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH. When an application requests financial assistance, NYSOH must verify an applicant's household income.

If NYSOH cannot verify the household income attested to by the applicant, through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.



In the notice issued on June 29, 2016, July 9, 2016 and August 26, 2016, you were advised that information was necessary to confirm your household's income, before NYSOH could make an eligibility determination.

The record reflects that documentation was submitted on July 11, 2016, but it did not include your income from [REDACTED]. However, on August 31, 2016, you faxed documentation to NYSOH that consisted of two consecutive bi-weekly paystubs for each of your two jobs. This documentation was uploaded by NYSOH to your account on September 11, 2016. On September 9, 2016, someone from NYSOH entered a note into your account stating, "Invalid proof of income; [REDACTED] submitted 2 weeks of pay stubs needs to submit current 4 weeks of pay stubs." Presumably, this note refers to the documents faxed on August 31, 2016, as those were the most recent income documents that NYSOH had received.

However, NYSOH's note stating that there were only two weeks of pay stubs submitted was incorrect, as the documentation that you faxed on August 31, 2016 consisted of two consecutive biweekly paystubs from each of your jobs. Therefore, the documentation submitted should have been sufficient to meet NYSOH's requirements.

Had NYSOH validated the income documentation you submitted on August 31, 2016, and done so in a timely fashion, you would have been able to enroll your child in a CHP plan in time to have an October 1, 2016 start date.

Therefore, NYSOH's November 12, 2016 eligibility determination is MODIFIED to state that your child was eligible to enroll in CHP with a monthly cost of \$9.00, effective October 1, 2016.

Likewise, NYSOH's November 17, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began on October 1, 2016.

## **Decision**

The July 9, 2016 disenrollment notice stating that your child's CHP coverage ended effective July 31, 2016 is MODIFIED to state that your child's CHP coverage ended on September 30, 2016.

The November 12, 2016 notice of eligibility redetermination is MODIFIED to state that your child was eligible to enroll in CHP with a monthly cost of \$9.00, effective October 1, 2016.

The November 17, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began on October 1, 2016.

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).

Your case is RETURNED to NYSOH to effectuate the changes above.

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

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

The effective date of your child's CHP plan was October 1, 2015, and that coverage should have continued until September 30, 2016.

Your child should have been found eligible to re-enroll in CHP effective October 1, 2016.

Your case is being sent back to NYSOH to reinstate your child in his CHP coverage for the months of August and September 2016, and to backdate his current CHP eligibility and enrollment to October 1, 2016.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the months of August 2016 through November 2016.

### **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:

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).

Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061

- By fax: 1-877-369-0129

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 July 9, 2016 disenrollment notice stating that your child's CHP coverage ended effective July 31, 2016 is MODIFIED to state that your child's CHP coverage ended on September 30, 2016.

The November 12, 2016 notice of eligibility redetermination is MODIFIED to state that your child was eligible to enroll in CHP with a monthly cost of \$9.00, effective October 1, 2016.

The November 17, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began on October 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes above.

The effective date of your child's CHP plan was October 1, 2015, and that coverage should have continued until September 30, 2016.

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).

Your child should have been found eligible to re-enroll in CHP effective October 1, 2016.

Your case is being sent back to NYSOH to reinstate your child in his CHP coverage for the months of August and September 2016, and to backdate his current CHP eligibility and enrollment to October 1, 2016.

You are responsible for paying the insurance carrier any CHP premiums that are owed for the months of August 2016 through November 2016.

### **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

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



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).

## Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### 中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### 中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### 한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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).

## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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