



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

## Notice of Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014208

[REDACTED]

Dear [REDACTED],

On March 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 15, 2016 eligibility determination and enrollment notices, December 9, 2016 disenrollment notice, and December 21, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014208

[REDACTED]

## Issues

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

Did the NY State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in her Child Health Plus plan was effective no earlier than October 1, 2016, pursuant to the September 15, 2016 notice of eligibility determination?

Does NYSOH have the authority to review whether your child was properly disenrolled from her Child Health Plus plan effective November 30, 2016 for non-payment of premium amounts?

Did NYSOH properly determine that your child's reenrollment in her Child Health Plus plan was effective no earlier than February 1, 2017?

## Procedural History

On May 19, 2016, NYSOH received a revised application for health insurance.

On May 20, 2016, NYSOH issued a notice in response to that application stating that your child may be eligible for health insurance through NYSOH, but more information was needed to make a determination. You were requested to provide income documentation by June 4, 2016 to confirm that the information provided in your application was accurate.

On May 23, 2016, NYSOH received (1) four earnings statements issued to you by your employer, [REDACTED] between April 22, 2016 and May

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13, 2016, and (2) four earning statements issued to your spouse by his employer, [REDACTED] between April 21, 2016 and May 12, 2016. These documents appear not have been reviewed or verified by NYSOH representatives.

On or about May 25, 2016, NYSOH created a defect [REDACTED] regarding a system issue preventing your child from being found eligible for and enrolling in a Child Health Plus.

On June 14, 2016, NYSON ran your eligibility based on information contained within your account as of June 14, 2016.

On June 15, 2016, NYSOH issued an eligibility determination notice stating that your child had been found eligible to purchase a qualified health plan at full cost through NYSOH, effective July 1, 2016.

On or about July 1, 2016, NYSOH received your complaint about not being able to resolve the NYSOH defect preventing your child from being found eligible for and enrolling in a Child Health Plus (CHP) plan.

Between July 20, 2016 and September 3, 2016, NYSOH received several additional updates to your application and redetermined your child's eligibility for financial assistance several times. In each case, your child was found ineligible for financial assistance.

On September 14, 2016, NYSOH redetermined your child's eligibility for health insurance.

On September 15, 2016, 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, 2016.

Also on September 15, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your child's enrollment as of September 14, 2016. The notice stated that her CHP plan coverage would begin effective October 1, 2016.

On December 9, 2016, NYSOH issued a disenrollment notice stating that your child's CHP plan coverage would end effective November 30, 2016, due to non-payment of premium amounts.

On December 18, 2016, NYSOH reran your child's eligibility for health insurance.

On December 19, 2016, NYSOH issued an eligibility determination notice, stating that your child was eligible to enroll in Child Health Plus (CHP) with a \$15.00 monthly premium, effective February 1, 2017.

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Also on December 19, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your child's enrollment as of September 14, 2016. The notice stated that her CHP plan coverage would begin effective October 1, 2016.

On December 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it began on October 1, 2016, rather than June 1, 2016.

On March 9, 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 support the following findings of fact:

- 1) You testified that you are appealing only your child's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on May 19, 2016. In response to this application, NYSOH requested additional income documentation by June 4, 2016.
- 3) On May 23, 2016, you provided to NYSOH four earnings statements issued to you by your employer, [REDACTED] reflecting that you received (1) \$32.40 on April 22, 2016, (2) \$20.60 on April 29, 2016, \$10.00 on May 6, 2016 and (4) \$20.00 on May 13, 2016.
- 4) On May 23, 2016, you provided to NYSOH four earning statements issued to your spouse by his employer, [REDACTED] reflecting that you received (1) \$676.00 on April 21, 2016, (2) \$890.50 on April 28, 2016, (3) \$929.50 on May 5, 2016, (4) \$1,066.00 on May 12, 2016.
- 5) On May 25, 2016, NYSOH created a defect [REDACTED] regarding a system issue preventing your child from being found eligible for and enrolling in a Child Health Plus.
- 6) You testified that you attempted to revise your application several times between May 2016 and September 2016, but were unable to complete your application to permit your child to enroll in a CHP plan.
- 7) You testified, and the record reflects, that you enrolled your child ultimately enrolled into a CHP plan on September 14, 2016.

- 8) You testified that you were seeking for your child's CHP plan coverage to begin effective June 1, 2016, rather than October 1, 2016, since you had incurred several medical bills during that time.
- 9) Your child was subsequently disenrolled from her CHP plan effective November 30, 2016 due to non-payment of premium amounts.
- 10) You reenrolled your child in a CHP plan on December 20, 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

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 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).

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of

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cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

## Legal Analysis

The first issue is whether NYSOH properly determined that your child's enrollment in her CHP plan was effective no earlier than October 1, 2016.

You testified, and your application reflects, that you contacted NYSOH on May 19, 2016 to seeking financial assistance for your child in purchasing health insurance. In response to this application, NYSOH requested that you send income documentation to NYSOH by June 4, 2016 so that your child's eligibility could be determined.

The record reflects that on May 23, 2016, you provided to NYSOH four earnings statements issued to you by your employer, [REDACTED] between April 22, 2016 and May 13, 2016. On that same day, you also provided to NYSOH four earning statements issued to your spouse by his employer, [REDACTED] between April 21, 2016 and May 12, 2016. These documents do not appear to have been reviewed or verified by NYSOH.

On or about May 25, 2016, NYSOH created a defect [REDACTED] regarding a system issue preventing your child from being found eligible for and enrolling in a Child Health Plus.

You testified that you attempted to revise your application several times between May 2016 and September 2016, but were unable to complete your application to permit your child to enroll in a CHP plan.

You testified, and the record reflects, that you enrolled your child ultimately enrolled into a CHP plan on September 14, 2016.

The credible evidence reflects, however, that while you provided the necessary documentation to confirm your child's eligibility on May 23, 2016, which is when your application was considered complete, you were unable to receive an eligibility determination to enroll your child in a CHP plan until September 14, 2016.

Accordingly, we may infer that but for the defect that prevented your child's enrollment, you would have selected a CHP plan on May 23, 2016.

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.

Therefore, the eligibility determination and enrollment notices are MODIFIED to state that your child's eligibility for and enrollment in her Child Health Plus plan was effective July 1, 2016.

The second issue under review is whether NYSOH has the authority to determine whether your child was properly disenrolled from her CHP plan effective November 30, 2016 for non-payment of premium amounts.

The record indicates that your child was enrolled into her CHP plan effective October 1, 2016. You testified that you believe you missed a payment to the CHP plan issuer, and were disenrolled.

On December 9, 2016, NYSOH issued a disenrollment notice stating that your child's CHP plan coverage would end effective November 30, 2016 because premium payments were not received by the payment deadline.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your child was properly terminated from her CHP plan for non-payment of premiums. Therefore, your appeal of the December 9, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The third issue is whether NYSOH properly determined that your child's reenrollment in her CHP plan was effective February 1, 2017.

The record reflects that you contacted NYSOH on December 20, 2016 to reenroll your child into her CHP plan. You testified that you did not have any problems when reenrolling your child in her CHP plan.

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.

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As you contacted NYSOH to reenroll your child into a CHP plan on December 20, 2016, her reenrollment should have taken effect the first day of the second following month after December; that is, on February 1, 2017. Therefore, the December 21, 2016 enrollment notice stating that your child's reenrollment in her CHP plan was effective February 1, 2017 is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your child's CHP plan coverage from July 1, 2016 through September 30, 2016.

Please note, however, that you will be responsible for all premiums due in connection with your child's reinstatement of coverage.

## **Decision**

The eligibility determination and enrollment notices are MODIFIED to state that your child's eligibility for and enrollment in her CHP plan was effective July 1, 2016.

Your appeal of the insurer's termination of your child's enrollment in her CHP plan for non-payment of premiums, effective November 30, 2016, is DISMISSED as a non-appealable issue.

The December 21, 2016 enrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your child's CHP plan coverage from July 1, 2016 through September 30, 2016.

**Effective Date of this Decision:** May 10, 2017

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

Your child's CHP enrollment is reinstated between July 1, 2016 and September 30, 2016.

You will be responsible for all premiums due in connection with your child's reinstatement of coverage.

Your child's reenrollment in her CHP plan was effective February 1, 2017.

## **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:  
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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The eligibility determination and enrollment notices are MODIFIED to state that your child's eligibility for and enrollment in her CHP plan was effective July 1, 2016.

You will be responsible for all premiums due in connection with your child's reinstatement of coverage.

Your appeal of the insurer's termination of your child's enrollment in her CHP plan for non-payment of premiums, effective November 30, 2016, is DISMISSED as a non-appealable issue.

The December 21, 2016 enrollment notice is AFFIRMED.

Your child's reenrollment in her CHP plan was effective February 1, 2017.

## **Legal Authority**

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

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



## **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。我们可以为您免费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 مجانًا.

### **বাংলা (Bengali)**

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### **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&btumi 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.

### **שׂוּדִישׁ (Yiddish)**

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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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