



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

## Notice of Decision

Decision Date: March 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014417

[REDACTED]

Dear [REDACTED]

On March 9, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2016 eligibility and disenrollment 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 § 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: March 31, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014417

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your child's eligibility for Child Health Plus and enrollment in their Child Health Plus plan should end effective December 31, 2016?

## Procedural History

On September 8, 2016, NYSOH issued an eligibility determination notice that your eldest child was eligible for Child Health Plus, with a monthly premium of \$0.00, effective as of October 1, 2016.

On September 8, 2016, NYSOH issued an enrollment notice confirming that as of September 7, 2016, your child was enrolled in a Child Health Plus plan with an enrollment start date of October 1, 2016.

On December 14, 2016, your NYSOH account was updated.

On December 15, 2016, NYSOH issued an eligibility determination notice stating that your child was no longer eligible for financial assistance or to enroll in health coverage through NYSOH because the notices that were sent to you by U.S. mail to the mailing provided in your account were returned to NYSOH as undeliverable. The notice stated that your child's eligibility would end effective December 31, 2016.

Also on December 15, 2016, NYSOH issued a notice stating that your child's health insurance coverage would end December 31, 2016 because they were no longer eligible to enroll in health insurance through NYSOH.

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On December 29, 2016, your NYSOH account was updated.

Also on December 29, 2016, you requested an appeal insofar as your child being disenrolled from their Child Health Plus plan effective December 31, 2016.

On December 30, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus, with a monthly premium of \$0.00, effective as of February 1, 2017.

Also on December 30, 2016, NYSOH issued an enrollment notice confirming that as of December 29, 2016, your child was enrolled in a Child Health Plus plan with an enrollment start date of February 1, 2017.

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 the record was left open until March 10, 2017 to allow you to submit evidence of your current residence and mailing addresses.

On March 10, 2017, you faxed four-pages of documents to NYSOH Appeals Unit. You faxed: (1) A cover page; (2) December 30, 2016 NYSOH notice confirming your appeal request; (3) Official Change of Address Confirmation Letter from the United States Postal Service; and (4) your rental agreement. That documentation has been incorporated into the record and will be referred to as "Exhibit A." The record is now complete and closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for your five-year-old child.
- 2) According to your NYSOH account, you receive all notices from NYSOH via regular mail.
- 3) The September 8, 2016 eligibility determination and September 8, 2016 enrollment notices were issued to: [REDACTED]
- 4) The September 8, 2016 eligibility determination and September 8, 2016 enrollment notices were sent back to NYSOH as "RETURN MAIL" on September 26, 2016 and October 3, 2016 [REDACTED]

- 5) You testified that you and your eldest child have resided at your current address since September 1, 2016.
- 6) You have resided at [REDACTED] since September 1, 2016 and, your current lease ends on August 31, 2017 (Exhibit A pg. 4).
- 7) On February 12, 2017, you requested that the United States Postal Service forward your mail from [REDACTED] to [REDACTED] (Exhibit A pg. 3).
- 8) You testified that your child had a lapse in health insurance coverage for the month of January 2017.
- 9) You testified that your child did not have any medical claims in January 2017. However, you are concerned you will be penalized on your federal income tax return.

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)).

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 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 [PHL] § 2510(6)).

## Legal Analysis

The issue under review is whether NYSOH properly terminated your child's Child Health Plus coverage effective December 31, 2016.

On September 8, 2016, NYSOH issued notices stating that your eldest child was eligible for Child Health Plus and enrolled in a Child Health Plus plan effective October 1, 2016. The notices were sent via U.S. mail to [REDACTED]. However, those notices were sent back to NYSOH as "RETURN MAIL" on September 26, 2016 and October 3, 2016 because they were undeliverable.

Generally, children remain eligible for Child Health Plus for 12 continuous months unless they become ineligible because they are no longer a state resident or premiums are not timely paid or gains access to or obtains other health insurance coverage, or become eligible for Medicaid. This twelve-month period starts on the effective date of the individual's eligibility.

On December 15, 2016, NYSOH issued an eligibility redetermination and disenrollment notices stating, in relevant parts, your child was not eligible for health insurance coverage because NYSOH sent you notices about eligibility and coverage by U.S. mail to the mailing address on your account. However, the information was returned as undeliverable. Therefore, your child's coverage was discontinued December 31, 2016.

You submitted a currently copy of your lease that indicates that you have lived at [REDACTED] since September 1, 2016, and your lease extends until August 31, 2017. There is sufficient evidence in the record to conclude that you and your child have continuously retained New York State residency since being enrolled in Child Health Plus and no other issue regarding your child's eligibility exists. Therefore, your child was improperly found to be ineligible and disenrolled from their health plan effective December 31, 2016.

Since the December 15, 2016 eligibility determination and disenrollment notices ended your child's Child Health Plus coverage before the end of their twelve-month eligibility period, they are RESCINDED.

Your child's case is RETURNED to NYSOH to effectuate their coverage for January 2017 and the remainder of their twelve-month eligibility period.

## Decision

The December 15, 2016 eligibility determination notice is RESCINDED.

The December 15, 2016 disenrollment notice is RESCINDED.

Your child's case is RETURNED to NYSOH to effectuate their coverage for January 2017 and the remainder of their twelve-month eligibility period.

**Effective Date of this Decision:** March 31, 2017

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

Your child was improperly disenrolled from their Child Health Plus plan effective December 31, 2016.

Your child's case is returned to NYSOH to reinstate their coverage for January 2017 and the remainder of their twelve-month eligibility period.

### **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 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

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- By fax: 1-855-900-5557

## **Summary**

The December 15, 2016 eligibility determination notice is RESCINDED.

The December 15, 2016 disenrollment notice is RESCINDED.

Your child's case is RETURNED to NYSOH to effectuate their coverage for January 2017 and the remainder of their twelve-month eligibility period.

Your child was improperly disenrolled from their Child Health Plus plan effective December 31, 2016.

Your child's case is returned to NYSOH to reinstate their coverage for January 2017 and the remainder of their twelve-month eligibility period.

## **Legal Authority**

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



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

