



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

Notice of Decision

Decision Date: May 20, 2016

NY State of Health Account ID: [REDACTED] -
Appeal Identification Number: AP000000005106

[REDACTED]

Dear [REDACTED],

On February 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 4, 2015 and October 10, 2015 disenrollment notices, as well as the November 5, 2015 enrollment confirmation 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 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.

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly terminate the Child Health Plus coverage of your two children, effective October 31, 2015?

Did NYSOH properly terminate your qualified health plan coverage through BlueCross BlueShield of Western New York, effective October 31, 2015?

Did NYSOH properly determine that your family's enrollment in the Medicaid Managed Care through Independent Health Association, Inc. should be effective December 1, 2015?

Procedural History

NYSOH received your initial application for health insurance on June 29, 2015.

On June 30, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive advance payments of the premium tax credit (APTC) of up to \$91.00 per month; eligible for cost-sharing reductions (CSR), provided you selected a silver-level plan; and ineligible for Medicaid. Your two children were found eligible for Child Health Plus (CHP) at a reduced premium rate of \$9.00 per month each. However, your younger son's eligibility was conditional pending the receipt of documentation to confirm his citizenship status and Social Security number before September 27, 2015. This eligibility determination was effective August 1, 2015.

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Also on June 30, 2015, NYSOH issued a notice confirming your enrollment in qualified health plan issued by BlueCross BlueShield of Western New York (BCBS), and your children's enrollment in a CHP plan issued by Independent Health Association Inc. (Independent Health), with a total monthly premium responsibility of \$18.00. The notice further stated that provided you paid your first month's premium, your family's coverage would begin August 1, 2015.

On October 4, 2015, NYSOH issued a notice of eligibility redetermination stating that your younger son was no longer eligible to enroll in health insurance through NYSOH because you had not provided documentation to confirm his citizenship status or Social Security number. The notice further confirm that his eligibility would end October 31, 2015.

Also on October 4, 2015, NYSOH issued a disenrollment notice confirming that coverage with Independent Health for your two children would end effective October 31, 2015.

Finally, on October 4, 2015, NYSOH issued a notice reconfirming your enrollment with BCBS with a plan enrollment start date of August 1, 2015. However, the notice also advised you to select a CHP plan for your older son since his coverage could not begin until he selected a plan.

On October 8, 2015, NYSOH received an updated application in which you attested to an annual household income of \$20,213.08.

On October 9, 2015, NYSOH issued a notice stating that your family might be eligible for health insurance through NY State of Health but more information was needed to make a determination. The notice directed you to submit income documentation for your household by October 24, 2015 to confirm the information you provided in your application was accurate, or you might lose your eligibility for coverage.

On October 10, 2015, NYSOH issued a disenrollment notice confirming that your coverage with BCBS would terminate effective October 31, 2015.

On October 25, 2015, NYSOH issued a notice stating that it was time for you to renew your health insurance for 2016. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for health coverage, and that you needed to update your account by December 15, 2015 or your family might lose the financial assistance they were currently receiving.

On November 3, 2015, NYSOH receive two earning statements issued to you by [REDACTED] on October 9, 2015 and October 23, 2015.

On November 4, 2015, NYSOH received an updated application in which you attested to a household income of \$20,213.08.

Also on November 4, 2014, NYSOH received a copy received a transmission report reflecting that a fax had been successfully sent by you to NYSOH's fax number, "18559005557," on July 29 at 10:19 p.m.

On November 5, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the November 4, 2015 application. It stated that you and your two children were eligible for Medicaid. This eligibility determination was effective November 1, 2015.

Also on November 5, 2015, NYSOH issued a notice confirming your family's enrollment in a Medicaid Managed Care (MMC) plan with Independent Health, effective December 1, 2015.

That same day, you spoke to NYSOH's Account Review Unit and appealed the November 5, 2015 enrollment confirmation notice insofar as it began your family's coverage under your Medicaid Managed Care plan on December 1, 2015, rather than November 1, 2015.

On February 24, 2016, 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) Your qualified health plan coverage with BlueCross BlueShield of Western New York (BCBS) began as of August 1, 2015.
- 2) Your children were found eligible for coverage through Child Health Plus (CHP) beginning August 1, 2015. However, the eligibility of your younger son was found to be conditional pending receipt of documentation to confirm his citizenship status and Social Security number before September 27, 2015. You had selected for their coverage a plan through Independent Health Association Inc. (Independent Health).
- 3) You testified that you had sent documentation confirming your younger son's citizenship status and Social Security number by facsimile to NYSOH prior to the September 27, 2015 deadline.
- 4) You testified that you contacted NYSOH during October 2015 after having received three consecutive notices with confusing information. You further

testified that you informed a NYSOH representative that you were no longer working at your former position at [REDACTED]. It was as a result of this update in your application that you were found eligible for Medicaid, and your family was disenrolled from their respective health plans.

- 5) On November 4, 2015, you provided to NYSOH a copy received a transmission report reflecting that a fax had been successfully sent by you to NYSOH's fax number, "18559005557", on July 29 at 10:19 p.m.
- 6) NYSOH issued an eligibility redetermination notice on October 4, 2015 stating that [REDACTED] was no longer eligible for coverage through NYSOH effective October 31, 2015 since you did not provide documentation to confirm his citizenship status or his Social Security number.
- 7) NYSOH disenrolled both of your children from their CHP coverage through Independent Health, effective October 31, 2015.
- 8) NYSOH received a revised application on November 4, 2015 in which you attested to a household income of \$20,213.08.
- 9) Your family was found eligible for Medicaid effective November 1, 2015.
- 10) Your coverage through BCBS was terminated effective October 31, 2015.
- 11) The record reflects that you selected Independent Health as your family's MMC plan on November 4, 2015. NYSOH found that your family's coverage under this plan began effective December 1, 2015.
- 12) You testified that you were seeking to backdate your family's coverage under the Independent Health MMC plan from December 1, 2015 to November 1, 2015.
- 13) You testified that while your children ultimately did not incur any out-of-pocket medical costs during the month of November 2015, you were unable to reschedule an oncology appointment and did incur out-of-pocket expenses from that appointment.

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

Applicable Law and Regulations

Child Health Plus - Generally

A child who meets the eligibility requirements for Child Health Plus 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 for Child Health Plus, 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

(PHL § 2511(2)(a)-(e)).

As a condition of eligibility for Medicaid and Child Health Plus, an individual, including children, must furnish their Social Security number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NYSOH for verification purposes, including income, eligibility, and amount of medical assistance payments status (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

Advance Payments of Premium Tax Credit

Advance payments of the premium tax credit (APTC) are generally available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (*see* 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first

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day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h)).

Legal Analysis

The first issue is whether NYSOH properly determined that your children's enrollment in their Child Health Plus (CHP) plan terminated effective October 31, 2015.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that they have valid Social Security numbers and their citizenship/immigration status. NYSOH provides for 90 days from the application for children seeking enrollment in Child Health Plus to provide this information.

Your children were originally found eligible for CHP based on a household income of \$39,204.00 on June 29, 2015. However, the eligibility of your younger son was found to be conditional pending receipt of documentation to confirm his citizenship status and Social Security number before September 27, 2015. This eligibility was effective August 1, 2015.

You testified that you provided this documentation prior to September 27, 2015; however, NYSOH has no record of having received it before that date. On November 4, 2015, you provided to NYSOH a facsimile transmission report reflecting that a fax had been successfully sent by you to NYSOH's fax number, "18559005557", on July 29 at 10:19 p.m. While the documents you provided to NYSOH did not contain the documentation in question, we find your testimony and documentation credible since NYSOH subsequently found both of your children eligible for Medicaid, without condition, with coverage effective November 1, 2015.

It is therefore determined that you had timely submitted the necessary documentation before the deadline.

Since this documentation would have confirmed both your younger's citizenship status and Social Security number, as requested by NYSOH, we find that NYSOH improperly disenrolled him from his CHP plan coverage on the basis of not having provided documentation to confirm his citizenship status and Social Security number.

Furthermore, your older son was simultaneously disenrolled as of October 31, 2015, since both he and his brother were jointly enrolled in a CHP plan. While a subsequent eligibility determination was issued on October 4, 2015 finding him eligible to enroll in a CHP plan effective November 1, 2015, no affirmative action

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was taken by NYSOH to reenroll him in such a plan. Therefore, NYSOH improperly disenrolled your older son from his CHP plan coverage based solely on his joint enrollment with his brother.

The record reflects, however, that you revised your application on October 8, 2015 in which you attested to an annual household income of \$20,213.08. Based on this revised application, you and your children were found eligible for Medicaid, pending the receipt of documentation to confirm your eligibility. You provided earnings statements issued to you by your employer on November 3, 2015. NYSOH issued an eligibility redetermination notice on November 5, 2015, based on the information contained in the November 4, 2015 application, stating that you were found eligible for Medicaid, effective November 1, 2015.

Since a child who is found eligible for Medicaid is ineligible for coverage through CHP, NYSOH correctly found that coverage for your children under their CHP plan terminated as of October 31, 2015. Therefore, the October 4, 2015 disenrollment notice is MODIFIED to reflect that they are no longer eligible to enroll in their CHP plan because they were found eligible for Medicaid.

There would also be no gap in coverage for your children.

The second issue is whether NYSOH properly terminated your qualified health plan coverage effective October 31, 2015.

The record reflects that your application was updated on October 8, 2015, in which you attested to an annual household income of \$20,213.08. In addition to your children, you were found eligible for Medicaid pending verification of your income. You provided the necessary documents on November 3, 2015. Based on this documentation, your application was further revised on November 4, 2015. Based on the information contained in this revised application, your family's Medicaid eligibility was confirmed and found effective beginning November 1, 2015.

Since you were found eligible for Medicaid effective November 1, 2015, you were no longer eligible for APTC after that date. However, nothing would preclude you from remaining enrolled in your qualified health plan at full cost.

Therefore, the October 10, 2015 disenrollment notice is AFFIRMED; however, NYSOH is directed to facilitate your reenrollment in your qualified health plan as of November 1, 2015, provided you remit the required premium amounts.

The last issue is whether NYSOH properly determined that your family's enrollment in your Medicaid Managed Care (MMC) plan should be effective December 1, 2015.

The date on which a Medicaid Managed Care 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 between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

On November 4, 2015, you selected your Medicaid Managed Care plan, so it must take effect on the first day of the following month after November 4, 2015; that is, on December 1, 2015.

Therefore, the November 5, 2015 enrollment confirmation notice stating that your family's MMC coverage through Independent Health would take effect on December 1, 2015 is correct and must be AFFIRMED.

Decision

The October 4, 2015 disenrollment notice is MODIFIED to reflect that your children were no longer eligible to enroll in their CHP plan because they were found eligible for Medicaid instead

The October 10, 2015 disenrollment notice is AFFIRMED; however, NYSOH is directed to facilitate, at your sole discretion, your reenrollment in your qualified health plan at full cost as of November 1, 2015, provided you remit the required premium amounts to the insurance carrier.

The November 5, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: May 20, 2016

How this Decision Affects Your Eligibility

Your children were disenrolled from their CHP plan, effective October 31, 2015.

You were disenrolled from your qualified health plan, effective October 31, 2015.

Your family's Medicaid Fee-For-Service coverage became effective November 1, 2015.

Your family's MMC coverage through Independent Health became effective December 1, 2015.

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At your election, NYSOH will facilitate your reenrollment in your qualified health plan at full cost, effective November 1, 2015, provided you remit the required premium amounts to the insurance carrier. Enrolling in your former qualified health plan would also mean you would not remain enrolled in your MMC plan.

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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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Summary

The October 4, 2015 disenrollment notice is AFFIRMED on the corrected basis that they are no longer eligible to enroll in their CHP plan because they were found eligible for Medicaid.

The October 10, 2015 disenrollment notice is AFFIRMED; however, NYSOH is directed to facilitate, at your sole discretion, your reenrollment in your qualified health plan at full cost as of November 1, 2015, provided you remit the required premium amounts to the insurance carrier.

The November 5, 2015 enrollment confirmation notice is AFFIRMED.

Your children were disenrolled from their CHP plan, effective October 31, 2015.

You were disenrolled from your qualified health plan, effective October 31, 2015.

Your family's Medicaid Fee-For-Service coverage began, effective November 1, 2015.

Your family's MMC coverage through Independent Health began, effective December 1, 2015.

At your election, NYSOH will facilitate your reenrollment in your qualified health plan at full cost, effective November 1, 2015, provided you remit the required premium amounts to the insurance carrier. Enrolling in your former qualified health plan would also mean you would not remain enrolled in your MMC plan.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

