



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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005233

[REDACTED]

Dear [REDACTED],

On February 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 11, 2015 disenrollment notice and November 23, 2015 eligibility determination 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.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005233

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Issues

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

Is the Appeals Unit of NY State of Health (NYSOH) able to review your appeal of the cancellation of your children's coverage effective October 31, 2015, due to non-payment of premiums?

Did NYSOH properly determine that your children's re-enrollment in coverage through their Child Health Plus plan was effective no earlier than January 1, 2016?

Procedural History

On December 16, 2014, an enrollment confirmation notice was issued confirming your children's enrollment in a Child Health plus plan.

On October 24, 2015, NYSOH issued a renewal notice stating that, based upon information from federal and state data sources, a decision could not be made in regards to your children's eligibility. You were asked to update the information in your NY State of Health account by December 15, 2015 so a decision could be made.

On November 11, 2015, a disenrollment notice was issued terminating your children's health coverage under their Child Health Plus plan effective October 31, 2015. This was because premium payments were not received by your health plan.

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On November 17, 2015, your account was updated.

On November 17, 2015, you contacted NYSOH's Account Review Unit and requested a telephone hearing to appeal the start date of your children's coverage through Child Health Plus.

On November 23, 2015, NYSOH issued an eligibility determination notice stating that your two children were eligible to enroll in Child Health Plus with a premium of \$30.00 per month each, effective January 1, 2016.

On February 10, 2016, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are appealing only your children's eligibility and enrollment start date under their Child Health Plus plan.
- 2) Your children were found eligible for Child Health Plus at rate of \$30.00 per month each effective January 1, 2015.
- 3) On November 11, 2015, a disenrollment notice was issued terminating your children's health coverage under their Child Health Plus plan effective October 31, 2015. This was because premium payments had not been received by your health plan.
- 4) The record supports that your children were disenrolled from their Child Health Plus plan effective October 31, 2015.
- 5) You testified and your NYSOH account supports that on November 17, 2015, you reenrolled your children in a Child Health Plus plan through NYSOH at \$30.00 each with a start date of January 1, 2016.
- 6) You are seeking a start date of November 1, 2015 for your children's re-enrollment in their plan through Child Health Plus.
- 7) You testified that you had received NYSOH's October 24, 2015 renewal notice.

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

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Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal: (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 by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

Child Health Plus

Child Health Plus is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

“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 stated 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 of 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 subsequent month (see e.g. SPA Amendment NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review is whether the Appeals Unit of NY State of Health (NYSOH) is able to review your appeal of the cancellation of your children’s coverage effective October 31, 2015, due to non-payment of premiums.

On November 11, 2015, a disenrollment notice was issued terminating your children’s health coverage under their Child Health Plus plan effective October 31, 2015. This was because premium payments were not received by your health plan.

Your appeal was requested to dispute being cancelled for nonpayment of premium. However, it is not within the Appeals Unit's authority to review a cancellation due to nonpayment of premiums. Therefore, this issue cannot be addressed in this decision.

The second issue is did NYSOH properly determine that your children's enrollment in a Child Health Plus plan was effective January 1, 2016.

The record indicates that you submitted your children's updated application and enrollment on November 17, 2015. You then re-enrolled your children in a Child Health Plus plan through NYSOH that day with a start date of January 1, 2016.

The State of New York has stated 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 becomes eligible on the first day of the next month of the application is received by the 15th of the month; for applications received after the 15th day of the month, coverage can become effective on the first day of the second subsequent month.

Since your children's application and enrollment was filed on November 17, 2015, their enrollment in their Child Health Plus plan properly took effect on January 1, 2016. Therefore NYSOH's November 22, 2015 enrollment confirmation notice was proper and is AFFIRMED.

Decision

The November 11, 2015 disenrollment was based on a purported non-payment of premiums, which is not within the jurisdiction of the Appeals Unit. Therefore, the November 11, 2015 disenrollment notice cannot be addressed.

The November 23, 2015 eligibility determination notice was proper and is AFFIRMED.

Effective Date of this Decision: May 6, 2016

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility for Child Health Plus.

The effective date of your children's Child Health Plus plan is January 1, 2016.

If you believe you made your payments within the required timeframe you must contact your plan directly.

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).

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 11, 2015 disenrollment was based on a purported non-payment of premiums, which is not within the jurisdiction of the Appeals Unit. Therefore, the November 11, 2015 disenrollment notice cannot be addressed.

The November 23, 2015 eligibility determination notice was proper and is AFFIRMED.

This decision does not change your children's eligibility for Child Health Plus.

The effective date of your children's Child Health Plus plan is January 1, 2016.

If you believe you made your payments within the required timeframe you must contact your plan directly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

