



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

Notice of Decision

Decision Date: June 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005319

[REDACTED]

Dear [REDACTED],

On March 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 24, 2015 eligibility determination notice and November 24, 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 the 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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Decision Date: June 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005319

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine the enrollment of your daughter, [REDACTED] in Child Health Plus was effective as of January 1, 2016?

Did NYSOH properly determine the eligibility of your daughter for enrollment in Child Health Plus at \$45.00 per month?

Procedural History

On December 3, 2014, NYSOH issued a notice of eligibility determination, based on your November 10, 2014 application, stating that your daughter was eligible to enroll through Child Health Plus effective December 1, 2014. Your daughter was subsequently enrolled in a Child Health Plus plan with Healthfirst at a monthly premium rate of \$30.00, beginning December 1, 2014.

On September 15, 2015, NYSOH issued a notice that it was time to renew your daughter's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your daughter would qualify for financial help paying for his health coverage, and that you needed to update your account by November 15, 2015, or your daughter might lose the financial assistance she was currently receiving.

No updates were made to your account by November 15, 2015.

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On November 17, 2015, NYSOH issued an eligibility determination notice stating that your daughter was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your daughter also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your daughter's renewal within the required time frame. Your daughter's eligibility ended November 30, 2015.

On November 23, 2015, NYSOH received your daughter's updated application for health insurance in which you attested to an annual household income of \$55,000.00. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your daughter was eligible to enroll through Child Health Plus at a monthly premium rate of \$30.00, effective January 1, 2016.

Also on November 23, 2015, you spoke to NYSOH's Account Review Unit and appealed the start date of your daughter's Child Health Plus plan insofar as it did not begin December 1, 2015, and also contended that your daughter's Child Health Plus premium rate should be \$30.00 per month, rather than \$45.00.

On November 24, 2015 NYSOH issued a notice of eligibility determination, based on your November 23, 2015 application, stating that your daughter was eligible to enroll in Child Health Plus with a \$45.00 monthly premium, effective January 1, 2016.

Also on November 24, 2015, NYSOH issued a notice of enrollment, based on your plan selection on November 23, 2015, stating that your daughter had reenrolled in a Child Health Plus plan with Healthfirst, and that coverage would start on January 1, 2016.

On March 28, 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 support the following findings of fact:

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of head of household. You will claim your daughter as your sole dependent on that tax return.
- 2) The application that was submitted on November 23, 2015 listed annual household income of \$55,000.00, which consisted entirely of

income you anticipate receiving from your employer, [REDACTED]. You testified that this amount was correct.

- 3) At the time of the November 23, 2015 application, your daughter was 7 years old.
- 4) Your application states that you will not be taking any deductions on your 2015 tax return.
- 5) You live in Queens County, New York.
- 6) You testified, and the record reflects, that you receive all of your notices from NYSOH by regular mail.
- 7) You testified that you received the renewal notice issued on September 15, 2015, telling you that you needed to update your application by November 15, 2015 in order to renew your daughter's coverage.
- 8) You testified that you inadvertently called your daughter's insurance carrier, Healthfirst, prior to the November 15, 2015 deadline to renew your coverage. You further testified that no one told you that you needed to renew through NYSOH.
- 9) You testified that your daughter incurred some medical expenses during the month of December 2015.
- 10) The record reflects that on November 23, 2015, NYSOH received your daughter's updated application for health insurance.
- 11) You testified that you are seeking that your daughter be enrolled in her Child Health Plus plan with Healthfirst as of December 1, 2015, rather than January 1, 2016. You testified that you were also seeking for her monthly premium to remain \$30.00, rather than \$45.00.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified

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individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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

A child who meets the eligibility requirements for Child Health Plus (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 (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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Child Health Plus (CHP) 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. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL (PHL § 2510(9)(d)(v)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your daughter's enrollment in her Child Health Plus plan was effective January 1, 2016.

Your daughter was originally found eligible for Child Health Plus effective December 1, 2014.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's September 15, 2015 renewal notice stated that there was not enough information to determine whether your daughter was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by November 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your daughter was terminated from her Child Health Plus plan, effective November 30, 2015.

You testified that while you received the September 15, 2015 renewal notice from NYSOH telling you that you needed to update the information in your NYSOH

account on your child's behalf prior to November 15, 2015, you inadvertently contacted the insurance carrier, Healthfirst, rather than NYSOH itself.

Therefore, the record reflects that NYSOH properly notified you of your need to renew your daughter's application and that information in your NYSOH account needed to be updated in order to ensure your daughter's continued enrollment in her Child Health Plus plan and for eligibility for financial assistance to continue.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on November 23, 2015, and selected a Child Health Plus plan for your daughter that day.

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 from the first day to and including the 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 until the end of the month goes into effect on the first day of the second following month.

Since you had resubmitted your daughter's enrollment in a Child Health Plus plan as of November 23, 2015, the start date of her coverage would be the first day of the second following month, or January 1, 2016.

The second issue under review is whether NYSOH properly determined that your daughter was eligible to enroll in Child Health Plus with a \$45.00 per month premium.

According to the record, you expect to file as head of household for the 2015 tax year and claim your daughter as your sole dependent. Therefore, your child is in a two-person household.

On your November 23, 2015 application, you attested to an expected household income of \$55,000.00. The application also stated that your child is 7 years old. NYSOH relied upon this information.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). Household income between 301% and 360% of that FPL are responsible for a \$45.00 per month Child Health Plus premium payment. On the date of your November 23, 2015 application, the relevant FPL was \$15,930.00 for a two-person household. Since \$55,000.00 is 345.26% of the 2015 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$45.00 per month premium payment.

Therefore, NYSOH's November 24, 2015 eligibility determination notice and November 24, 2015 enrollment confirmation notice are AFFIRMED because it

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properly began your daughter's eligibility for and enrollment in Child Health Plus on January 1, 2015, with a monthly premium rate of \$45.00.

Decision

The November 23, 2015 eligibility determination notice is AFFIRMED.

The November 23, 2015 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: June 1, 2016

How this Decision Affects Your Eligibility

This decision does not change your daughter's eligibility.

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

Your child remains eligible for Child Health Plus with a \$45.00 per month premium.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The November 23, 2015 eligibility determination notice is AFFIRMED.

The November 23, 2015 enrollment confirmation notice is AFFIRMED.

This decision does not change your daughter's eligibility.

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

Your child remains eligible for Child Health Plus with a \$45.00 per month premium.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

