



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

Notice of Decision

Decision Date: April 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005423

[REDACTED]

Dear [REDACTED],

On April 6, 2016, you both appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 2014 cancellation and enrollment notices regarding your three children.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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 Date: April 22, 2016

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 properly cancel your children's coverage through Child Health Plus on September 29, 2014, effective September 30, 2014?

Did NY State of Health properly re-enroll your children in the same Child Health Plus plan with a \$0.00 monthly premium, effective November 1, 2014?

Procedural History

On May 6, 2014, NY State of Health (NYSOH) issued an eligibility determination notice that stated your children were eligible to enroll in Child Health Plus (CHP) and receive help with paying the monthly premium. The notice further stated that the total monthly premium amount was set at \$27.00 (\$9.00 per child), and coverage could begin after you selected a health plan for your children and paid the first month's premium.

On August 25, 2014, NYSOH issued an enrollment notice confirming that you had selected Fidelis Care CHP for your three children and had a \$27.00 monthly premium responsibility, with coverage that could begin as early as October 1, 2014, provided you paid your first month's premium.

On September 29, 2014, NYSOH reran your family's eligibility based on an annual household income of \$43,879.33.

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On September 30, 2014, NYSOH issued an eligibility redetermination notice that stated your children remained eligible to enroll in CHP at no cost and coverage could begin after you selected a health plan for your children. No eligibility effective date was included in the notice.

Also on September 30, 2014, NYSOH issued a cancellation notice that stated your September 29, 2014 request to cancel your children's coverage had been processed and they would not have coverage with Fidelis Care CHP.

That same day, NYSOH issued an enrollment notice confirming your children were enrolled in Fidelis Care CHP with no monthly premium and a start date of November 1, 2014.

On December 4, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of the cancellation of your children's CHP coverage in October 2014, since it had not yet otherwise been resolved as of that date.

On April 6, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to submit supporting documentation.

On April 19, 2016, the Appeals Unit received a four-page facsimile from you that consisted of (1) A cover page; (2) An invoice from Fidelis Care for the October 2014 premium; (3) Copies of your children's original Fidelis Care insurance identification cards; and (4) A copy of your checking account statement showing payment on September 29, 2014. That same day, your four-page facsimile was made part of the record as "Appellant's Exhibit A" and the record was closed.

Findings of Fact

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

- 1) You testified, and the record reflects, that you are appealing only your children's eligibility.
- 2) You testified that on or about August 24, 2014 you enrolled your children in a CHP plan through NYSOH, with a start date of October 1, 2014.
- 3) You testified that you believed your children's coverage would start October 1, 2014 and received an invoice for premium, dated August 29, 2014, and Fidelis Care CHP insurance identification cards in the mail stating their start date of coverage was October 1, 2014 (see, Appellant's Exhibit A, pp. 2-3).

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- 4) You testified and provided documentary proof that you paid the first month's premium for your children's insurance on September 29, 2014 (see, Appellant's Exhibit A, p. 4).
- 5) You testified that you did not request that NYSOH cancel your children's coverage on September 29, 2014, but had only updated your NYSOH account with more accurate income information on that date.
- 6) You testified that you took the children to the dentist on or about October 23, 2014, and your Fidelis Care insurance cards were accepted.
- 7) You testified that you were later notified by staff at the dentist's office that the \$411.00 claim was denied by Fidelis Care because you had no CHP coverage for your children in October 2014.
- 8) You testified that you would have waited eight more days to take them to the dentist in November 2014, had you known NYSOH had cancelled their October 2014 coverage.
- 9) You testified that you received a refund check from Fidelis Care for the October 2014 premium you had paid.
- 10) You are seeking to have your children's CHP coverage reinstated for the month of October 2014, so that the dental bill can be processed.

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 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 "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

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New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law [PHL] § 2510(6)).

In New York State, Child Health Plus benefits are furnished “By the first day of the month after the application is received if prior to the 15th of the month or the first day after the subsequent month if after the 15th of the month” (Selection made on Form CS 18, Separate Child Health Insurance Program Non-Financial Eligibility – Citizenship. Sections: 2105(c)(9) and 2107(e)(1)(J) of the SSA and 42 CFR 457.320(b)(6), (c) and (d)).

Child Health Plus - Change in Premium Amount

Effective January 1, 2014, the State must apply the financial methodologies used to determine Medicaid when determining financial eligibility of all individuals for CHP (45 CFR§ 457.315). The State may elect in its State Plan to base financial eligibility either on current monthly household income and family size or income based on projected annual income and family size for the remainder of the calendar year (42 CFR § 435.603). In circumstances where there is a change in income, New York State has elected to base financial eligibility on income prospectively, that is, for the remainder of the calendar year.

Families are required to report to the health plans or NYSOH changes in New York State residency or health care coverage through insurance that may make a child ineligible for subsidy payments. They are also required to report changes which affect their subsidy level or make them appear eligible for Medicaid. The health plan or NYSOH would act accordingly based upon the new information. If a family submits revised eligibility information to a plan that affects their eligibility status, the health plan or NYSOH implements this information prospectively. A family may incur a lower or higher family contribution or be referred to Medicaid based on this new information (42 CFR § 457.570 and 457.505(c); Model State Child Health Plan OMB #: 0938-0707; §§ 4.1.8 and 4.3).

Legal Analysis

The issue is whether NYSOH properly determined that your children’s enrollment in their CHP Plus plan was effective November 1, 2014.

The record indicates that you submitted your children’s application for health insurance on May 5, 2014 and that you enrolled them in a CHP plan on August 24, 2014, which is confirmed by the August 25, 2014 enrollment notice.

In New York State, consistent with federal regulation, if an application for Child Health Plus insurance coverage is received after the 15th of the month, benefits

are provided on “the first day of the subsequent month,” that is, the second following month.

On May 6, 2014, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in Child Health Plus with a \$27.00 monthly premium.

On August 25, 2014, NYSOH issued a notice confirming your children’s Child Health Plus plan selection. The notice confirmed that the total monthly premium was \$27.00 and their coverage could start as early as October 1, 2014, if you pay your first month premium. The record reflects that you paid the October 2014 premium on September 29, 2014, which is on time such that their CHP coverage should have begun as of October 1, 2014.

Since the period of your children’s CHP eligibility began on October 1, 2014, it continues until September 30, 2015, unless an event occurs to disqualify them from CHP eligibility. The record does not indicate that any CHP premiums were not timely paid, that your children had gained access to or obtained other health insurance, or that your children had become eligible for Medicaid during October 2015. The record does confirm that they still reside in New York State.

When additional determinations were made on September 29, 2014 with the corresponding notices issued on September 30, 2014, the twelve-month period of CHP eligibility that was to begin on October 1, 2014 had not expired, and no event had occurred to end that eligibility. According to the credible evidence of record, your children’s Fidelis Care CHP coverage should not have been terminated before it began on October 1, 2014.

Since your children’s plan selection was confirmed on August 25, 2014, their Child Health Plus plan properly took effect on October 1, 2014. Therefore, the August 25, 2014 enrollment notice is AFFIRMED.

While it appears NYSOH correctly recalculated your family contribution and reset it to no premium on September 29, 2014, the cancellation of your children’s coverage beginning October 1, 2014 was in error and there should not have been a gap in coverage created by this action. Instead, the change in the family contribution to no premium should have been made prospectively, that is, as of November 1, 2014.

Therefore, the September 30, 2014 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to re-instate your children’s coverage in their Fidelis Care CHP plan effective October 1, 2014, and to notify you accordingly.

You will be responsible for the premium of \$27.00 that is due for that month.

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Decision

The August 25, 2014 enrollment confirmation notice is AFFIRMED.

The September 30, 2014 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to re-instate your children's coverage in their Fidelis Care CHP plan effective October 1, 2014, and to notify you accordingly.

Effective Date of this Decision: April 22, 2016

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The effective start date of your children's Child Health Plus plan is October 1, 2014.

You will be responsible for the premium of \$27.00 that is due for that month.

Your family monthly contribution changed to no monthly premium as of November 1, 2014.

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 after the date 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 date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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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:
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- By fax: 1-855-900-5557

Summary

The August 25, 2014 enrollment confirmation notice is **AFFIRMED**.

The September 30, 2014 cancellation notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to re-instate your children's coverage in their Fidelis Care CHP plan effective October 1, 2014, and to notify you accordingly.

This decision does not change your children's eligibility.

The effective start date of your children's Child Health Plus plan is October 1, 2014.

You will be responsible for the premium of \$27.00 that is due for that month.

Your family monthly contribution changed to no monthly premium as of November 1, 2014.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

