



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: AP000000005812



Dear [REDACTED],

On March 25, 2016, your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's October 30, 2015 disenrollment 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 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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NY State of Health Account ID: [REDACTED]
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Issue

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

Did NY State of Health properly determine that your children were terminated from their Child Health Plus plan as of November 30, 2015?

Procedural History

On November 29, 2014, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your November 28, 2015 application, stating that your children were eligible for Child Health Plus with a \$30.00 monthly premium, effective January 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On October 30, 2015, a disenrollment notice was issued terminating your children's Child Health Plus coverage effective November 30, 2015.

On December 9, 2015, NYSOH received your children's updated application for health insurance.

On December 10, 2015, NYSOH issued a notice of eligibility determination, based on your December 9, 2015 application, stating that your children were eligible to enroll in Child Health Plus with a \$45.00 monthly premium each, effective January 1, 2016.

Also on December 10, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 9, 2015, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on January 1, 2016.

On December 29, 2015, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan effective November 30, 2015.

On March 25, 2016, your authorized representative spouse 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) The record indicates that on October 29, 2015 you accessed your NYSOH account and updated information pertaining to your income and household.
- 2) The Events Tab in your NYSOH account indicates that on October 30, 2015 the System deleted your children's enrollment in their Child Health Plus plan.
- 3) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 4) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that your children had been disenrolled from their coverage effective November 30, 2015.
- 5) You again accessed your account on December 9, 2015 and re-enrolled your children into a Child Health Plus plan with a January 1, 2016 start date.
- 6) You testified that you are seeking that your children be enrolled in their Child Health Plus plan as of December 1, 2015.

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

Applicable Law and Regulations

Child Health Plus

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).

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).

Continuous Coverage

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)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

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

Your children were originally found eligible for Child Health Plus effective January 1, 2015.

The record reflects that you updated your application on October 29, 2015. The Events Tab in your NYSOH account indicates that on October 30, 2015 the System deleted your children's enrollment in their Child Health Plus plan. As a result, your children were terminated from their Child Health Plus plans effective November 30, 2015.

Once a child becomes eligible for Child Health Plus, they remain eligible for twelve months unless an event occurs that would disqualify them from enrollment.

Since your children were originally found eligible for Child Health Plus effective January 1, 2015. Your children should have remained eligible continuously for twelve months until December 31, 2015. The record does not indicate any event that would have disqualified your children from coverage in the month of December 2015.

Furthermore, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding any notice in your NYSOH account telling you that your children had been disenrolled from their coverage effective November 30, 2015.

It is concluded that NYSOH did not give you the proper notice that your children were being disenrolled from their Child Health Plus plan effective November 30, 2015.

Therefore, the October 30, 2015 disenrollment notice is RESCINDED because it improperly ended your children's enrollment in their Child Health Plus plan before their twelve months of eligibility had expired and you did not receive proper notice that their plan was ending.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of December 2015.

Decision

The October 30, 2015 disenrollment notice is RESCINDED

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of December 2015.

Effective Date of this Decision: April 22, 2016

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in their Child Health Plus plan were improperly terminated for the month of December 2015.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of December 1, 2015.

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 October 30, 2015 disenrollment notice is RESCINDED

Your children's eligibility for and enrollment in their Child Health Plus plan were improperly terminated for the month of December 2015.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of December 1, 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

