



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

Notice of Decision

Decision Date: June 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005854

[REDACTED]

Dear [REDACTED],

On March 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2015 eligibility determination and December 31, 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.

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

Decision Date: June 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005854

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your two youngest children's enrollment in their Child Health Plus plan was effective February 1, 2016?

Procedural History

On April 15, 2015, a NYSOH account was created on your family's behalf. In an application submitted that day, you indicated that you were not seeking insurance coverage through NYSOH for your three youngest children.

On December 14, 2015, your NYSOH account was updated to indicate that you were seeking insurance coverage for your two youngest children, [REDACTED] and [REDACTED] through NYSOH.

On December 15, 2015, NYSOH issued a notice stating that [REDACTED] and [REDACTED] eligibility could not be determined and that more information regarding the household's income was needed.

On December 24, 2015, NYSOH issued a notice of eligibility determination, stating that [REDACTED] and [REDACTED] were eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective February 1, 2016.

On December 30, 2015, you selected a Child Health Plus plan for [REDACTED] and [REDACTED].

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Also on December 30, 2015 you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as coverage did not begin January 1, 2016.

On December 31, 2015 NYSOH issued a notice of enrollment, based on your plan selection on December 30, 2015, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start February 1, 2016.

On March 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 support the following findings of fact:

- 1) You testified that you are appealing only [REDACTED] and [REDACTED] eligibility.
- 2) Your NYSOH account was created on April 15, 2015; at that time, you were not seeking insurance coverage through NYSOH, for your two youngest children, [REDACTED] and [REDACTED]
- 3) Your NYSOH account was updated on December 14, 2015 to indicate that you were seeking coverage for [REDACTED] and [REDACTED]. The annual household income you expected to receive was updated to \$41,600.00.
- 4) Your NYSOH account indicates that you file your taxes as married filing jointly and claim three of your children as dependents on that tax return.
- 5) The record indicates that you submitted documentation of your household's income on December 16, 2015 and December 28, 2015.
- 6) You testified, and the record reflects, that you enrolled your two youngest children into a Child Health Plus plan through NYSOH on December 30, 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

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 below 400% of the federal poverty level (FPL) for the applicable household size (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

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 first application for your two youngest children, that was the 2015 FPL, which was \$28,410.00 for a five-person household (80 Federal Register 3236, 3237).

“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, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child may be enrolled presumptively for two months while the missing documentation is collected (see *e.g.* 42 CFR § 457.355, SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

Legal Analysis

The issue is whether NYSOH properly determined that enrollment in their Child Health Plus plan for your two youngest children, [REDACTED] and [REDACTED] was effective February 1, 2016.

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According to the record, you expect to file a joint federal income tax return with your spouse and claim your three of your children as dependents. Therefore, [REDACTED] and [REDACTED] are in a five-person household.

On your December 14, 2015 application, you attested to an expected household income of \$41,600.00.

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). On the date of your application, the relevant FPL was \$28,410.00 for a five-person household. Since the submitted household income on that application of \$41,600.00 is 146.43% of the 2015 FPL, [REDACTED] and [REDACTED] would have an income below 400% of the FPL based on the information contained in your December 14, 2015 NYSOH application.

However, instead of issuing an eligibility for your two youngest children based on your application, NYSOH issued a notice stating that their eligibility could not be determined and that more information regarding the household's income was needed. The record indicates that you submitted documentation of your household's income on December 16, 2015 and December 28, 2015.

As a result of needing to submit income documentation, [REDACTED] and [REDACTED] were not determined eligible for Child Health Plus until December 24, 2015 and a plan was not selected for them until December 30, 2015.

The date on which a Child Health Plus plan can take effect generally 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.

However, the State of New York has elected to find a child presumptively eligible for Child Health Plus for two months from the date of their NYSOH application if the child appears eligible for coverage pending submission of documentation. Therefore, [REDACTED] and [REDACTED] should have been found presumptively eligible for Child Health Plus as of the December 14, 2015 application and a plan could have been selected for them that day. If a plan had been selected on December 14, 2015, that plan would have taken effect on the first day of the next month after December; that is, on January 1, 2016.

Therefore, the December 24, 2015 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, [REDACTED] and [REDACTED] are eligible to enroll in Child Health Plus with a \$9.00 premium per month, and the December 31, 2015 notice of enrollment confirmation is MODIFIED to state that [REDACTED] and [REDACTED] enrollment in their Child Health Plus plan is effective January 1, 2016.

Decision

The December 24, 2015 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your two youngest children are eligible to enroll in Child Health Plus with a \$9.00 premium per month.

The December 31, 2015 notice of enrollment confirmation is MODIFIED to state that your two youngest children's enrollment in their Child Health Plus plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Effective Date of this Decision: June 3, 2016

How this Decision Affects Your Eligibility

██████████ and ██████████ eligibility for and enrollment in their Child Health Plus plan should have been effective as of January 1, 2016

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of January 1, 2016.

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

Summary

The December 24, 2015 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your two youngest children are eligible to enroll in Child Health Plus with a \$9.00 premium per month.

The December 31, 2015 notice of enrollment confirmation is MODIFIED to state that your two youngest children's enrollment in their Child Health Plus plan is effective January 1, 2016.

██████████ and ██████████ eligibility for and enrollment in their Child Health Plus plan should have been effective as of January 1, 2016

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

