



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: AP000000005921

[REDACTED]

Dear [REDACTED],

On March 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 3, 2016 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 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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Decision

Decision Date: April 22, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005921

[REDACTED]

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 child's eligibility for enrollment in his Child Health Plus plan was effective February 1, 2016?

Procedural History

On May 28, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your May 27, 2015 application, stating that your child was conditionally eligible for Child Health Plus, effective July 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan with a plan start date of June 1, 2015.

On October 25, 2015, NYSOH issued a notice stating that it was time to renew your child's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for his health coverage, and that you needed to update your account by December 15, 2015, or your child might lose the financial assistance he was currently receiving.

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

On December 20, 2015, NYSOH issued a notice of eligibility determination, based on your December 19, 2015 application, stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective January 1, 2016.

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Also on December 20, 2015, a disenrollment notice was issued terminating your child's Child Health plus coverage effective December 31, 2015.

On January 3, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus plan with a \$9.00 premium per month and a plan start date of February 1, 2016.

On January 4, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your son's Child Health Plus plan insofar as it did not begin January 1, 2016.

On March 23, 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, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your child's coverage.
- 3) You testified that you did not know that you needed to update your account.
- 4) You enrolled your child into a Child Health Plus plan on January 2, 2016.
- 5) You testified that you are seeking that your child be enrolled in his Child Health Plus plan as of January 1, 2016.
- 6) Your child was originally found conditionally eligible for Child Health plus and enrolled in a plan effective June 1, 2015.

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

Applicable Law and Regulations

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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 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).

Electronic Notices

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).

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 child's enrollment in his Child Health Plus plan was effective February 1, 2016.

Your child was originally found eligible for Child Health Plus effective June 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is 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 October 25, 2015, renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his Child Health Plus plan, effective December 31, 2015.

However, 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 the renewal notice, which directed you to update the information in your NYSOH account on behalf of your child.

There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to select a plan for enrollment child's behalf.

You first enrolled your child into a Child Health Plus plan for 2016 coverage on January 2, 2016 and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 3, 2016 enrollment confirmation notice is MODIFIED to state that, effective January 1, 2016, your child is eligible to enroll in Child Health Plus with a \$9.00 premium per month.

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Decision

The January 3, 2016 enrollment confirmation notice is MODIFIED to state that, effective January 1, 2016, your child is enrolled in Child Health Plus with a \$9.00 premium per month.

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

Effective Date of this Decision: April 22, 2016

How this Decision Affects Your Eligibility

Your child's 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 child into his 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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 3, 2016 enrollment confirmation notice is MODIFIED to state that, effective January 1, 2016, your child is enrolled in Child Health Plus with a \$9.00 premium per month.

Your case is being sent back to NYSOH to reinstate your child into his 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:

