



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

Notice of Decision

Decision Date: June 28, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006009

[REDACTED]

Dear [REDACTED],

On April 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 7, 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006009

[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 the enrollment of your son, [REDACTED], in Empire BlueCross BlueShield, his Child Health Plus plan, was effective February 1, 2016?

Procedural History

On June 3, 2015, NYSOH issued a notice of eligibility determination, based on your June 2, 2015 application, stating that your five youngest children, including [REDACTED], were each eligible to enroll in a Child Health Plus (CHP) plan for a cost of \$9.00 per month, effective July 1, 2015.

Also on June 3, 2015, NYSOH issued an enrollment confirmation notice, based on your plan selection of June 2, 2015, stating that your five youngest children were enrolled in UnitedHealthcare as their CHP plan, and that their plan would start July 1, 2015.

On December 8, 2015, NYSOH received an update to your application.

On December 9, 2015, NYSOH issued a notice of eligibility determination, based on your December 8, 2015 application, stating that your 5 youngest children were each eligible to enroll in CHP for a cost of \$9.00 per month, effective January 1, 2016.

Also on December 9, 2015, NYSOH issued an enrollment confirmation notice, based on your plan selection on December 8, 2015, stating that your five youngest children were enrolled in UnitedHealthcare as their CHP plan, and that their plan would start July 1, 2015 for a total premium of \$27.00 per month.

On January 7, 2016, NYSOH issued an additional enrollment confirmation notice stating that you had switched your children's CHP coverage to Empire BlueCross BlueShield (Empire BCBS) as of January 6, 2015. The notice further stated that your children's enrollment start date under this plan would be February 1, 2016. You spoke to NYSOH's Account Review Unit and appealed the start date of enrollment by your son, [REDACTED], in Empire BCBS as his CHP plan insofar as it did not begin on January 1, 2016.

Also on January 7, 2016, NYSOH issued a disenrollment notice confirming that the coverage of your five youngest children with UnitedHealthcare would end, effective January 31, 2016.

On April 5, 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) Your five youngest children were enrolled in UnitedHealthcare as their CHP plan, effective July 1, 2015.
- 2) You submitted a revised application to NYSOH for financial assistance on December 8, 2015.
- 3) You testified, and the record reflects, that you requested to switch the CHP plan coverage of your son, [REDACTED], from UnitedHealthcare to Empire BlueCross Blue Shield (Empire BCBS) on or about December 8, 2015; however, you were also seeking for your other four children enrolled in UnitedHealthcare to remain enrolled in that plan.
- 4) You testified, and the record reflects, that you were advised that this was not possible, and that you would need to switch all of your children over to the new plan, or to disenroll [REDACTED] from NYSOH, and enroll him directly with the Empire BCBS in order to secure his individual coverage.
- 5) You ultimately switched the CHP plan coverage of your five children to Empire BCBS on January 6, 2016.

- 6) Your five youngest children were enrolled in Empire BCBS as their CHP plan, effective February 1, 2016.
- 7) You testified that as a result of the enrollment of your son, [REDACTED], in Empire BCBS, effective February 1, 2016, you incurred out-of-pocket costs, which would have been covered had his coverage started January 1, 2016.

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

Applicable Law and Regulations

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

Legal Analysis

The issue is whether NYSOH properly determined that the enrollment of your son, [REDACTED], in Empire BlueCross BlueShield (Empire BCBS) as his Child Health Plus (CHP) plan was effective February 1, 2016.

You testified that you contacted NYSOH on or about December 8, 2015 and sought to enroll your son into a Child Health Plus plan with Empire BCBS since the physician he was seeing would not accept the UnitedHealthcare plan he had been enrolled in since July 1, 2015. The record reflects that you were instructed by NYSOH that he could not be individually enrolled in that CHP plan, without your other four children also making the switch from UnitedHealthcare to Empire BCBS.

You ultimately requested updated your NYSOH account to switch the CHP plan coverage of your five youngest children from UnitedHealthcare to Empire BCBS on January 6, 2016.

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 between the first day and 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 and the end of the month goes into effect on the first day of the second following month.

Therefore, the January 7, 2016 enrollment confirmation notice stating that the enrollment of your five youngest children in Empire BCBS as their CHP plan was effective February 1, 2016, is correct and must be AFFIRMED.

Decision

The January 7, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: June 28, 2016

How this Decision Affects Your Eligibility

This decision does not change your son's eligibility.

The effective date of your son's coverage with Empire BCBS as his CHP plan is February 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.

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).

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 January 7, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your son's eligibility.

The effective date of your son's coverage with Empire BCBS as his CHP plan is February 1, 2016.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

