



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

Notice of Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006131

[REDACTED]

Dear [REDACTED],

On April 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 5, 2016 eligibility determination and enrollment confirmation notices.

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 § 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: AP000000006131



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

Procedural History

On December 3, 2014, NYSOH issued a notice of eligibility determination, based on your December 2, 2014 application, stating that your child was eligible for Child Health Plus (CHP), effective January 1, 2015. Your child subsequently enrolled in a CHP plan.

On October 22, 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/children would qualify for financial help paying for his/her/their 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 21, 2015, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also

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could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your child's eligibility ended December 31, 2015.

On January 4, 2016, NYSOH received your child's updated application for health insurance.

On January 5, 2016, NYSOH issued a notice of eligibility determination, based on your January 4, 2016 application, stating that your child was eligible to enroll in CHP with a \$45.00 monthly premium, effective February 1, 2016.

Also on January 5, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 4, 2016, stating that your child was enrolled in a CHP plan and that coverage would start on February 1, 2016.

On January 11, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin January 1, 2016.

On April 13, 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) The record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you had believed you were receiving notices from NYSOH by regular mail.
- 3) You further testified that you had never logged into your NYSOH account until January 2016, when you tried logging in, but were unable to because there was a problem with your password.
- 4) You testified that you do not recall receiving an email/electronic alert from NYSOH in October 2015.
- 5) You testified that you do recall receiving an email from NYSOH in December 2015, and that this email was what caused you to try to log into your NYSOH account for the first time, which you were unable to do.

- 6) You testified that, as of the date of your hearing, you are still unable to log into your NYSOH account.
- 7) You testified that you did not know that you needed to update your account until the middle of December 2015.
- 8) The record reflects that on January 4, 2016, NYSOH received your child's updated application for health insurance.
- 9) You testified that you are seeking that your child be enrolled in his CHP plan as of January 1, 2016.

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

Applicable Law and Regulations

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)).

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“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

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 eligibility for and enrollment in his CHP plan was effective February 1, 2016.

Your child was found eligible for CHP effective January 1, 2015.

Generally, NYSOH must redetermine a qualified child’s eligibility for CHP once every twelve 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 22, 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 CHP plan, effective December 31, 2015.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an

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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. You testified that you first received an email from NYSOH in December 2015, which prompted you to try to log in to your NYSOH account, but you were unable to do so.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your child's behalf.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on January 4, 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 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016 your child is eligible to enroll in CHP with a \$45.00 premium per month, and the January 5, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in his CHP plan is effective January 1, 2016.

Decision

The January 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your child is eligible to enroll in CHP coverage with a \$45.00 premium per month.

The January 5, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in his CHP plan is effective January 1, 2016.

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

Effective Date of this Decision: June 8, 2016

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in his CHP plan should have been effective as of January 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan as of January 1, 2016.

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PLEASE NOTE your account still indicates that you receive alerts by electronic mail. If you cannot log on to your online NYSOH account, you must contact NYSOH to change your method of notification to regular mail.

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

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Summary

The January 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your child is eligible to enroll in CHP coverage with a \$45.00 premium per month.

The January 5, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in his CHP plan is effective January 1, 2016.

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

Your child's eligibility for and enrollment in his CHP plan should have been effective as of January 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan as of January 1, 2016.

PLEASE NOTE your account still indicates that you receive alerts by electronic mail. If you cannot log on to your online NYSOH account, you must contact NYSOH to change your method of notification to regular mail.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

