



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

Notice of Decision

Decision Date: April 29, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006184

[REDACTED]

Dear [REDACTED],

On April 27 and 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 17, 2015 cancellation notice and December 31, 2015 enrollment notice regarding your children's disenrollment from and re-enrollment in Child Health Plus.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your children's coverage through Child Health Plus ended on December 31, 2015?

Did NY State of Health properly determine that your children's coverage through Child Health Plus began thereafter on February 1, 2016?

Procedural History

On April 7, 2015, NY State of Health (NYSOH) received your household's application for health insurance.

On April 8 and 15, 2015, NYSOH issued eligibility determination notices stating in part that your children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, effective May 1, 2015.

Also, on April 8 and 15, 2015, NYSOH issued enrollment notices confirming in part that your children were enrolled in Excellus BCBS Child Health Plus with a \$60.00 monthly premium, effective May 1, 2015.

On October 25, 2015, NYSOH issued a renewal notice stating, in part, that it did not have enough information from state and federal data sources to determine whether you, your spouse, and your children would qualify for financial assistance during 2016. It directed you to update the information in your account by December 15, 2015 so that a decision could be made.

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).

On December 11, 2015, NYSOH issued an eligibility redetermination notice stating that your children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium each, effective January 1, 2016.

Also on December 11, 2015, NYSOH issued a disenrollment notice stating that your children's 2015 coverage in Excellus BCBS Child Health Plus would end December 31, 2015.

Also on December 11, 2015, NYSOH issued enrollment notices confirming in part that your children were enrolled in Excellus BCBS Child Health Plus with a \$60.00 monthly premium, effective January 1, 2016.

On December 12, 2015, based on your December 11, 2015 updated application which was changed from a financial application to a non-financial one, NYSOH issued an eligibility redetermination notice finding you both eligible to purchase a qualified health plan at full cost and an enrollment notice confirming your silver-level qualified health plan selection, both effective January 1, 2016.

On December 17, 2015, NYSOH issued a disenrollment notice stating that your children's coverage through Child Health Plus that was to take effect January 1, 2016, was cancelled as of that date.

On December 29, 2015, you modified your household's application for health insurance and switched it back to a financial application.

As a result, on December 30, 2015, NYSOH issued an eligibility redetermination notice that in part found your children eligible for Child Health Plus with a \$15.00 monthly premium each, effective February 1, 2016.

On December 31, 2015, NYSOH issued an enrollment notice confirming that your children were re-enrolled in Excellus BCBS Child Health Plus with a \$30.00 monthly premium and an effective start date of February 1, 2016.

On January 13, 2016, you spoke to the Marketplace's Account Review Unit and appealed the gap in coverage your children experienced due to their December 31, 2015 disenrollment and February 1, 2016 re-enrollment into Child Health Plus.

On April 27 and 28, 2016, you both had a telephone hearing with a Hearing Officer from the Marketplace'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 supports the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing only your children's eligibilities for and enrollments in Child Health Plus.
- 2) Your NYSOH account reflects that your children were both enrolled in Excellus BCBS Child Health Plus, effective May 1, 2015, and you were both enrolled in a silver-level qualified health plan with advance payments of the tax credit, effective June 1, 2015.
- 3) On October 25, 2015, a renewal notice was issued stating that all family members needed to update information in your household's application.
- 4) According to your NYSOH account and your testimony at hearing, you used a Navigator on December 10, 2015 to update your children's eligibility for Child Health Plus on your household's financial application and they were enrolled in the same Child Health Plus plan they had in 2015, Excellus BCBS Child Health Plus, effective January 1, 2016.
- 5) According to your NYSOH account and your testimony at hearing, on December 11, 2015, you used a different Navigator to update the information for health insurance coverage for both of you in 2016, as you had been told this was required.
- 6) You both testified that, without your permission or knowledge, the Navigator changed your application from financial to non-financial on December 11, 2015, and did not tell you that this change would result in your children being disenrolled from the Child Health Plus plan you had selected for them the day before.
- 7) According to your NYSOH account, the change in the type of your application to non-financial resulted in your children being disenrolled systematically from their Child Health Plus plan, effective January 1, 2016.
- 8) You both testified that on December 29, 2015, the original Navigator who assisted you on December 10, 2015, accessed your NYSOH account and changed your application back to a financial one.
- 9) The record reflects that your children were redetermined eligible to enroll in Child Health Plus, effective February 1, 2016, and their enrollment was submitted for the same Excellus BCBS Child Health Plus on December 30, 2015, with an enrollment start date of February 1, 2016.

10) You are both appealing the gap in coverage for January 2016, during which month you incurred between \$400.00 and \$500.00 in medical bills for one of your children.

11) You both testified that, at all times relevant, your children's Child Health Plus monthly premiums were timely paid and your children have been residents of New York State, have not gained access to third party health insurance, and have not become eligible for Medicaid.

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 at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your children were disenrolled from their Child Health Plus plan as of December 31, 2015 and re-enrolled as of February 1, 2016.

On April 8 and 15, 2015, NYSOH issued notices of eligibility determination for an application submitted for your children on April 7, 2015. Both notices stated that, effective May 1, 2015, your children could enroll through Child Health Plus with a premium of \$30.00 each per month. As of these same dates, NYSOH issued enrollment notices confirming that your children were enrolled in Empire BCBS Child Health Plus, effective May 1, 2015. These eligibility determination and enrollment notices have not been appealed and is not under review here.

Since the period of your children's Child Health Plus eligibility and enrollment began on May 1, 2015, both continue until April 30, 2016, unless an event occurs to disqualify them from Child Health Plus eligibility or enrollment. The record does not indicate that any Child Health Plus premiums were not timely paid, that your children have gained access to or obtained other health insurance, or that your children have become eligible for Medicaid. The record does confirm that they have been residents of New York State at all times.

Ordinarily, when additional determinations made after the effective date of eligibility and coverage and before the twelve-month period of CHP eligibility that began on May 1, 2015 had expired, and where no events have occurred to end that eligibility and coverage, the children's coverage should not end before the twelve month period, which in your children's case is April 30, 2016. Therefore, the credible evidence of record supports that your children's coverage should have continued until April 30, 2016.

However, in the circumstances of your case, the October 25, 2015 renewal notice was defective in that it required you to update information for your children before December 15, 2015, when they were entitled to twelve months of continuous coverage through April 30, 2016. Notwithstanding, the record reflects that you updated the household's financial application on December 10, 2015, which resulted in a January 1, 2016 eligibility effective and enrollment start date for your children in the same Child Health Plus plan they had in 2015. But for the actions of a Navigator that followed on December 11, 2015, when without your permission or knowledge, your NYSOH application was switched from financial to non-financial, your children would have been enrolled in the Empire BCBS Child Health Plus plan as of January 1, 2016.

The record reflects that because your application was switched to non-financial , your children were no longer eligible for enrollment in a program that provides financial assistance and, therefore, they were systematically disenrolled from their Child Health Plus plan, effective January 1, 2016. In light of the missteps regarding your children's eligibility and enrollment in their Child Health Plus plan and to bring NYSOH's determinations into line with the record as currently developed, the December 30, 2015 notice of eligibility redetermination is MODIFIED to state that they were both eligible to enroll in Child Health Plus with a \$15.00 monthly premium for each, effective January 1, 2016; and the December 31, 2015 enrollment notice is MODIFIED to state that your children were enrolled in the Empire BCBS Child Health Plus plan, effective January 1, 2016, with a total monthly premium of \$30.00.

Your case is RETURNED to NYSOH to facilitate these modifications and to notify you accordingly.

You will be responsible for paying the January 2016 premium of \$30.00.

The December 30, 2015 notice of eligibility redetermination and the December 31, 2015 enrollment notice, as modified, supersede (replace) the previous eligibility determinations and enrollments/disenrollments made by NYSOH relative to your children from October 25, 2015 to December 17, 2015.

Decision

The December 30, 2015 notice of eligibility redetermination is MODIFIED to state that your children were both eligible to enroll in Child Health Plus with a \$15.00 monthly premium each, effective January 1, 2016.

The December 31, 2015 enrollment notice is MODIFIED to state that your children were enrolled in the Empire BCBS Child Health Plus plan, effective January 1, 2016, with a total monthly premium of \$30.00.

Your case is RETURNED to NYSOH to facilitate these modifications and to notify you accordingly.

You will be responsible to pay the January 2016 premium of \$30.00.

The December 30, 2015 notice of eligibility redetermination and the December 31, 2015 enrollment notice, as modified, supersede (replace) the previous eligibility determinations and enrollments/disenrollments made by NYSOH relative to your children from October 25, 2015 to December 17, 2015.

Effective Date of this Decision: April 29, 2016

How this Decision Affects Your Eligibility

The effective date of your children's Child Health Plus plan is January 1, 2016.

Their coverage in their Child Health Plus plan will continue until December 31, 2016 unless one of the events noted above occurs.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month of January 2016, during which your children experienced a gap in coverage.

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 after the date 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 date 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 December 30, 2015 notice of eligibility redetermination is MODIFIED to state that your children were both eligible to enroll in Child Health Plus with a \$15.00 monthly premium each, effective January 1, 2016.

The December 31, 2015 enrollment notice is MODIFIED to state that your children were enrolled in the Empire BCBS Child Health Plus plan, effective January 1, 2016, with a total monthly premium of \$30.00.

Your case is RETURNED to NYSOH to facilitate these modifications and to notify you accordingly.

You will be responsible to pay the January 2016 premium of \$30.00.

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The December 30, 2015 notice of eligibility redetermination and the December 31, 2015 enrollment notice, as modified, supersede (replace) the previous eligibility determinations and enrollments/disenrollments made by NYSOH relative to your children from October 25, 2015 to December 17, 2015. The effective date of your children's Child Health Plus plan is January 1, 2016.

Their coverage in their Child Health Plus plan will continue until December 31, 2016 unless one of the events noted above occurs.

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month of January 2016, during which your children experienced a gap in coverage.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

