



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

Notice of Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006335

[REDACTED]

Dear [REDACTED],

On May 12, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's January 6, 2016 disenrollment notice and January 20, 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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Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006335

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Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review cancellations of coverage through NYSOH due to an alleged non-payment of premiums?

Did NYSOH properly determine that your children's enrollment in their Child Health Plus plan was effective March 1, 2016?

Procedural History

On January 6, 2016, NYSOH issued a disenrollment notice stating that your children were disenrolled from their Child Health Plus (CHP) plan coverage effective December 31, 2015 because a premium payment had not been received by the health plan.

On January 20, 2016, NYSOH issued a notice of enrollment confirmation confirming your children's enrollment as of January 11, 2016 in a CHP plan at a monthly premium of \$180.00, effective March 1, 2016.

Also on January 20, 2016 you spoke to NYSOH's Account Review Unit and appealed the January 6, 2016 disenrollment notice and the January 20, 2016 enrollment confirmation notice, insofar as it made your children's CHP plan coverage effective March 1, 2016.

On May 12, 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 to have your children's CHP coverage backdated to January 1, 2016.
- 2) You testified that you were not aware that your children were disenrolled from their coverage until January 5, 2016, when you went to the pharmacy and were told that your children's insurance coverage was not active.
- 3) You testified that you contacted your children's health plan that same day, and were told that a January premium payment had not been made, and you needed to contact NYSOH.
- 4) You testified that you called NYSOH on January 11, 2016 and spoke to a NYSOH representative, but that the call got disconnected. You also testified that you called NYSOH again to try to get your children re-enrolled in coverage, and to explain that one of your children requires daily medical treatment.
- 5) You testified that you tried to make a payment for the January 2016 premium every time you called, and also tried once in person at the health plan's office, but your payment was not accepted.
- 6) You testified that you did not receive the January 6, 2016 disenrollment notice until January 20, 2016.
- 7) You testified that you pay your premiums two months at a time, and that you thought the payment you made for November and December 2015 was actually for December 2015 and January 2016.
- 8) You testified that you believe you should have been contacted sometime in December 2015 if a payment for January 2016 had not been received, and that it is not fair that your children's coverage was terminated without prior notice.
- 9) You testified that you re-enrolled your children into their CHP plan on January 11, 2016.

- 10) The record reflects that a NYSOH representative made the following note regarding your children's CHP coverage on April 16, 2016: "Call pull requests submitted to locate agent errors, if any. Due to call pull results, backdate submitted as agent errors occurred on both 1/11/2016 and 1/13/2016 which prevented enrollment."
- 11) The record further reflects that your children's CHP coverage and enrollment were backdated to February 1, 2016 on May 5, 2016.
- 12) You testified that you need your children's CHP plan coverage to be reinstated for January 2016 because one of your children receives daily medical treatments for which you had to enter into a payment plan, due to the fact that she did not have insurance in January and February 2016.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

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)).

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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 first issue under review is whether the Appeals Unit of NYSOH has the authority to review cancellations of coverage through NYSOH due to an alleged non-payment of premiums.

On January 6, 2016, NYSOH issued a disenrollment notice stating that your children's coverage in their CHP plan is terminated effective December 31, 2015 because of non-payment of premiums.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the January 6, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The remaining issue under review is whether NYSOH properly determined that your children's enrollment in their CHP plan was effective March 1, 2016.

The date on which a CHP plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of the month goes into effect on the first day of the second following month.

You testified, and the record reflects, that you spoke with representatives from NYSOH on January 11, 2016 and January 13, 2016. The record further reflects that NYSOH determined that the agents you spoke to on those two dates made

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errors that prevented your children's enrollment into their CHP plan. NYSOH therefore backdated your children's CHP coverage to February 1, 2016, as that is the date their coverage should have started, based on a plan selection date of January 11, 2016.

Therefore, the January 20, 2016 enrollment confirmation notice stating that your children's enrollment in their CHP plan was effective March 1, 2016 is MODIFIED to state their enrollment in their CHP plan is effective February 1, 2016.

Decision

Your appeal of the January 6, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The January 20, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their CHP plan coverage is effective February 1, 2016.

Your case is RETURNED to NYSOH to facilitate this change.

Effective Date of this Decision: June 7, 2016

How this Decision Affects Your Eligibility

The NYSOH Appeals Unit does not have the authority to review whether your children were properly disenrolled for non-payment of their CHP premium.

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

You will be responsible for payment of your children's February 2016 CHP premium, should you choose to seek coverage for that month.

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.

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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

Your appeal of the January 6, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

The January 20, 2016 enrollment confirmation notice is **MODIFIED** to state that your children's enrollment in their CHP plan coverage is effective February 1, 2016.

Your case is **RETURNED** to NYSOH to facilitate this change.

The NYSOH Appeals Unit does not have the authority to review whether your children were properly disenrolled for non-payment of their CHP premium.

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

You will be responsible for payment of your children's February 2016 CHP premium, should you choose to seek coverage for that month.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

