



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

Notice of Decision

Decision Date: June 3, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006353

[REDACTED]

Dear [REDACTED],

On May 12, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 21, 2015 eligibility determination and December 22, 2015 disenrollment 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(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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Decision

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NY State of Health Account ID: [REDACTED]
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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 enrollment in his Child Health Plus plan ended on December 31, 2015?

Procedural History

On January 10, 2015, NY State of Health (NYSOH) issued an eligibility determination stating that your child was eligible to enroll in a full cost Child Health Plus (CHP) plan, effective February 1, 2015.

On October 24, 2015, NYSOH issued a renewal notice stating, in part, that there was not enough information from state and federal data sources to determine whether your child would qualify for financial assistance in 2016. It directed you to update the information in your account by December 15, 2015 or your financial assistance might end.

On November 4, 2015, you updated your NYSOH account.

On November 5, 2015, NYSOH issued an eligibility determination notice which stated that your child was eligible to enroll in a full-cost CHP plan, effective December 1, 2015.

Also on November 5, 2015, NYSOH issued an enrollment confirmation notice which stated that your child was enrolled in a CHP plan with a \$192.00 monthly premium, and his enrollment had become effective February 1, 2015.

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On December 21, 2015, NYSOH issued an eligibility determination stating that your child was no longer eligible for CHP, but that his CHP coverage would continue until November 30, 2016, at a cost of \$0 per month.

On December 22, 2015, NYSOH issued a disenrollment notice stating that your child's coverage through his CHP plan would end, effective December 31, 2015, because he was no longer eligible to remain enrolled in his current plan.

On January 2, 2016, you contacted NYSOH and re-enrolled your son in his CHP plan.

On January 3, 2016, NYSOH issued an enrollment confirmation notice, confirming your son's re-enrollment into the same CHP plan in which he was enrolled in December 2015, with an enrollment start date of February 1, 2016.

On January 20, 2016, you spoke to the Marketplace's Account Review Unit and appealed the gap in coverage your child experienced from his disenrollment and reenrollment into his CHP plan.

On May 12, 2016, your spouse appeared at 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 support the following findings of fact:

- 1) Your spouse testified, and the record reflects, that you are appealing only your child's eligibility.
- 2) Your spouse testified that she first applied for coverage for your son in 2015, and that his CHP coverage started as of February 1, 2015.
- 3) Your spouse testified that she enrolled him in a full cost CHP plan as of February 1, 2015, and that she consistently paid all of his premiums.
- 4) On October 24, 2015, NYSOH issued a renewal notice regarding both you and your son. Twice in the first two pages of that notice NYSOH stated that you needed to update your account by December 15, 2015.
- 5) Your spouse testified that she received the October 24, 2015 renewal notice, and that she logged into your NYSOH account and updated the information with the intention of renewing your son's coverage for 2016.

- 6) The record reflects that these updates were made to your account on November 4, 2015.
- 7) Your spouse testified that she received several letters from NYSOH around December 22, 2015, and that, when she read them, one said that she had not picked a health plan for her son.
- 8) Your spouse testified that she was confused by this notice because she had picked the same plan for him as he had in 2015 when she updated your NYSOH account in November 2015.
- 9) Your spouse testified that she logged back into your NYSOH account sometime around January 3, 2016, and again chose the same plan for your son.
- 10) The record reflects your son was re-enrolled into his full cost CHP plan on January 2, 2016, with a start date of February 1, 2016.
- 11) Your spouse testified that, as a result, your child experienced a gap in his CHP coverage for the month of January 2016.
- 12) Your spouse testified that she had to pay out of pocket for medical treatment that your son received in January 2016.
- 13) Your spouse testified that she paid the premium for your son's January 2016 CHP coverage in December 2015.

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, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, 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 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility

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for that 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 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)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

For the benefit year beginning on January 1, 2016, the annual open enrollment period began on November 1, 2015 and ended on January 31, 2016 (45 CFR § 155.410(e)(2)).

Child Health Plus

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 § 2510(6)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your child's enrollment in his CHP plan ended effective December 31, 2015.

On November 4, 2015, after receiving a notice advising her that she must update your NYSOH account to secure coverage for your son in 2016, your spouse updated your NYSOH account with the intention of renewing your son's eligibility for 2016.

On November 5, 2015, NYSOH issued a notice of eligibility determination based on the updates your spouse made on November 4, 2015. It stated that, effective December 1, 2015, your child could enroll in a full cost CHP plan. Also on November 5, 2015, NYSOH issued an enrollment confirmation notice, confirming your son's enrollment in the CHP plan he had been enrolled in since February 1, 2015. These notices are not under appeal and are therefore not reviewed here.

Since your son first was found eligible for coverage through CHP effective February 1, 2015, barring circumstances not present here, his coverage should have continued without interruption for a full 12 months, or until January 31, 2016.

Moreover, NYSOH again found your son eligible for coverage under CHP effective December 1, 2015, and it should have then been extended until November 30, 2016, barring circumstances again not present here that would disqualify him from CHP eligibility.

The record does not indicate that any CHP premiums were not timely paid, that your child has gained access to or obtained other health insurance, or that your child had become eligible for Medicaid. The record does confirm that he still resides in New York State.

When additional determinations were made after November 5, 2015, the 12-month periods of CHP eligibility that began on February 1, 2015 and again on December 1, 2015 had not expired, and no event had occurred to end that eligibility. According to the credible evidence of record, your child's enrollment in his CHP plan coverage should not have ended effective December 31, 2015.

Therefore, NYSOH improperly disenrolled your son from coverage December 31, 2015, and his coverage should have continued without interruption.

Decision

The December 21, 2015 eligibility determination and December 22, 2015 disenrollment notice are MODIFIED to reflect that your son should not have been disenrolled from his CHP coverage effective December 31, 2015.

Your case is RETURNED to NYSOH to facilitate your son's re-enrollment into his CHP coverage for January 2016 in a manner that ensures there is no gap in his CHP plan coverage; you will be responsible for premiums related to the additional month of coverage.

Effective Date of this Decision: June 3, 2016

How this Decision Affects Your Eligibility

Your son's eligibility for and enrollment in coverage under Child Health Plus through NYSOH began on February 1, 2015, and should have continued without interruption for 12 months based on that start date.

NYSOH will facilitate the re-enrollment of your son into his CHP plan coverage for January 2016 to ensure that there is no gap in coverage.

PLEASE NOTE you are responsible for paying the insurance carrier any unpaid CHP premiums that are owed for the months he experienced a gap in coverage.

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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
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- By fax: 1-855-900-5557

Summary

The December 21, 2015 eligibility determination and December 22, 2015 disenrollment notice are MODIFIED to reflect that your son should not have been disenrolled from his CHP coverage effective December 31, 2015.

NYSOH will facilitate the re-enrollment of your son into his CHP plan coverage for January 2016 to ensure that there is no gap in coverage

You are responsible for paying the insurance carrier any unpaid CHP premiums that are owed for the months he experienced a gap in coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

