



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

Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006361



On May 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 21, 2015 eligibility determination and January 13, 2016 enrollment 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 at the top of this letter.

Legal Authority

We are sending you this notice in accordance with 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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Issue

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

Did New York State of Health (NYSOH) properly determine that your child was not eligible for financial assistance or eligible to enroll in a qualified health plan at full cost through the NYSOH as of December 31, 2015?

Did NYSOH properly determine that your child's Child Health Plus (Empire BlueCross BlueShield) enrollment start date should be February 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice stating that they did not have enough information from federal and state data sources to determine if you could get help paying for your insurance or what kind of coverage your child could have for next year. The notice directs you to return to your account by December 15, 2015 to provide more information or the financial assistance you are receiving may end.

On December 21, 2015, NYSOH issued a notice of eligibility determination stating that your child is not eligible for Medicaid, Child Health Plus, receive tax credits or cost-sharing reductions, or enroll in a qualified health plan at full cost because you did not complete your renewal within the required timeframe. The notice states that their eligibility will end effective December 31, 2015.

On December 22, 2015, NYSOH issued a disenrollment notice that your child's Child Health Plus coverage, with UnitedHealthcare Community Plan, will end December 31, 2015.

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 January 12, 2016, your NYSOH account was updated.

On January 13, 2016 NYSOH issued an eligibility determination notice that your child was eligible to enroll in Child Health Plus at full cost, effective as of February 1, 2016.

On January 13, 2016, NYSOH issued an enrollment notice confirming that on January 12, 2016 your child was enrolled in Child Health Plus (Empire BlueCross BlueShield) and the plan enrollment start date was February 1, 2016.

On January 21, 2016, you spoke to the NYSOH's Account Review Unit and requested an appeal in regard to the enrollment start date of your child's health insurance coverage.

On May 13, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Testimony was taken at the hearing under oath. The record is now complete and closed.

Findings of Fact

A review of the record supports the following findings of facts:

1. You are applying for health insurance for your two-year-old child.
2. According to your NYSOH account, your child was enrolled in a Child Health Plus (UnitedHealthcare) plan from October 1, 2014 through December 31, 2015.
3. According to your NYSOH account, you receive notices from NYSOH electronically.
4. You testified that you did not receive any notices from NYSOH regarding the need to renew your child's information to ensure that your children's coverage would not be interrupted.
5. You testified that the email listed in your NYSOH account is your current email address.
6. You testified that you first became aware that your child was disenrolled from their Child Health Plus plan when you received a medical bill in January 2016.
7. You enrolled your child on January 12, 2016 in Child Health Plus (Empire BlueCross BlueShield) and the plan enrollment start date was February 1, 2016.

8. You testified that you incurred a medical in January 2016 because your child did not have health insurance.

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

Applicable Law and Regulations

Child Health Plus Renewal:

In general, the NYSOH must review Child Health Plus eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2), 42 CFR § 457.343).

The NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

Electronic Notices

(a) Effective no earlier than October 1, 2013 and no later than January 1, 2015, the agency must provide individuals with a choice to receive notices and information ... in electronic format or by regular mail and must be permitted to change such election.

(b) If the individual elects to receive communications from the agency electronically, the agency must—

(1) Ensure that the individual's election to receive notices electronically is confirmed by regular mail.

(2) Ensure that the individual is informed of his or her right to change such election to receive notices through regular mail.

(3) Post notices to the individual's electronic account within 1 business day of notice generation.

(4) Send an email or other electronic communication alerting the individual that a notice has been posted to his or her account. The agency may not include confidential information in the email or electronic alert.

(5) Send a notice by regular mail within three business days of the date of a failed electronic communication if an electronic communication is undeliverable

(42 CFR § 435.918, 42 CFR § 457.110(a)(1)).

Child Health Plus

“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).

Legal Analysis

The issues under review are: (1) Whether the NYSOH properly determined your child not eligible for financial assistance or to enroll in health coverage through NYSOH, and (2) whether the NYSOH properly determined that your child’s Child Health Plus enrollment start date should be February 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 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 their Child Health Plus plan, effective December 31, 2015.

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However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically.

Since you elected to receive communications from the NYSOH electronically, NYSOH was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

You credibly testified that you did not receive an 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.

Lacking evidence to the contrary, we must conclude that you did not receive notice regarding termination of your child's health insurance coverage. 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 12, 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.

Accordingly, the December 21, 2015 notice stating that your child is not eligible to enroll in a qualified health plan or receive financial assistance because you did not complete your renewal within the required timeframe lacks support in the record and is RESCINDED.

The January 13, 2016 enrollment notice is MODIFIED to state that your child's Child Health Plus coverage through Empire BlueCross BlueShield should start January 1, 2016.

Decision

The notice of eligibility determination issued on December 21, 2015 is RESCINDED.

The January 13, 2016 enrollment notice is MODIFIED to state that your child's Child Health Plus coverage through Empire BlueCross BlueShield should start January 1, 2016.

Effective Date of this Decision: June 16, 2016

How this Decision Affects Eligibility

Your child was eligible to be enrolled in Child Health Plus (Empire BlueCross BlueShield) from January 1, 2016 until January 31, 2016.

You will be responsible to pay the January 2016 health insurance premium, if you have not done so already.

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 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:
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- By fax: 1-855-900-5557

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Summary

The notice of eligibility determination issued on December 21, 2015 is RESCINDED.

The January 13, 2016 enrollment notice is MODIFIED to state that your child's Child Health Plus coverage through Empire BlueCross BlueShield should start January 1, 2016.

Your child was eligible to be enrolled in Child Health Plus (Empire BlueCross BlueShield) from January 1, 2016 until January 31, 2016.

You will be responsible to pay the January 2016 health insurance premium, if you have not done so already.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

