



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

Notice of Decision

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006406

[REDACTED]

Dear [REDACTED],

On May 23, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health’s November 12, 2015 eligibility determination and disenrollment 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 NY State of Health 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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Decision

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006406



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 eligibility for and enrollment in their Child Health Plus plan ended as of November 30, 2015?

Procedural History

On November 27, 2014, NY State of Health (NYSOH) issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective January 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan.

On October 24, 2015, NYSOH issued a renewal 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 would qualify for financial help paying for his 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.

On November 4, 2015, the October 24, 2015 renewal notice was returned to NYSOH as "not deliverable."

On November 12, 2015, NYSOH issued an eligibility determination notice stating that your child was no longer eligible to enroll through NYSOH because notices that were sent to you by U.S. mail were returned to NYSOH as undeliverable. Your child's eligibility ended effective November 30, 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).

Also on November 12, 2015, NYSOH issued a disenrollment notice stating that your child's enrollment in his Child Health Plus plan would end effective November 30, 2015.

On December 8, 2015 NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective January 1, 2016.

On January 22, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as he did not have coverage in the month of December 2015.

On January 23, 2016 NYSOH issued a notice of enrollment, based on your plan selection on January 22, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on March 1, 2016.

On May 23, 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 indicates that the October 24, 2015 renewal notice was sent to: [REDACTED].
- 2) You testified that you signed into your NYSOH account in October and updated your mailing address to: [REDACTED] [REDACTED] [REDACTED].
- 3) There is no indication in your NYSOH account that any updates were made to your account in the month of October.
- 4) You testified, and the record indicates, that your child's Child Health Plus coverage was backdated to January 1, 2016.
- 5) You testified that you are only appealing to resolve the lapse in your child's coverage for the month of December 2015.

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)).

State Residency Requirement

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment, including verification of the applicant’s attestation of residency (45 CFR § 155.315(a), (d)).

If an applicant attests to residency in New York State, and NYSOH is unable to resolve inconsistencies with the attestation provided by the applicant, NYSOH must provide the applicant notice of the inconsistency and a period of 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. (45 CFR § 155.315(f)(2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child’s eligibility for and enrollment in their Child Health Plus plan ended as of November 30, 2015.

On November 27, 2014, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective January 1, 2015.

Since the period of your child’s Child Health Plus eligibility began on January 1, 2015, it continues until December 31, 2015, unless an event occurs to disqualify him from eligibility. The record does not indicate that any Child Health Plus

premiums were not timely paid, that your child gained access to or obtained other health insurance, or that he was found eligible for Medicaid.

The record does indicate that notices that were sent to the mailing address on your NYSOH account were returned as undeliverable. If a child no longer resides in New York State, they no longer qualify to receive Child Health Plus coverage through NYSOH.

However, if NYSOH cannot verify an individual's residency, it must send the individual a notice alerting them of the inconsistency and a period of 90 days from the date that notice is received to resolve the inconsistency.

The record, as established, indicates that NYSOH erred in discontinuing your child's coverage as of November 30, 2015. NYSOH was obligated to send you a formal notice that there was an inconsistency with your child's address and provide you with 90 days to correct the inconsistency. NYSOH failed to comply with those requirements.

Therefore, the November 12, 2015 eligibility determination stating that your child was not eligible for Child Health Plus because NYSOH sent you information but that information was returned to NYSOH as undeliverable and the November 12, 2015 disenrollment notice ending your child's Child Health Plus plan as of November 30 2015, were improper and are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus coverage for the month of December 2015.

Additionally, you testified, and the record indicates, that your child's Child Health Plus coverage was backdated to January 1, 2016. Therefore, the January 23, 2016 enrollment confirmation notice is also MODIFIED to indicate that his Child Health Plus plan for 2016 was effective as of January 1, 2016.

Decision

The November 12, 2015 eligibility determination notice is RESCINDED.

The November 12, 2015 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus coverage for December 2015 for the remainder of his twelve month eligibility which began on January 1, 2015.

The January 23, 2016 enrollment confirmation notice is also MODIFIED to indicate that his Child Health Plus plan for 2016 was effective as of January 1, 2016.

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Effective Date of this Decision: May 31, 2016

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in Child Health Plus should have continued until December 31, 2015.

Your case is being sent back to NYSOH to reinstate your child into his plan for December 2015.

This determination has no effect on his Child Health Plus plan for 2016 which began on January 1, 2016.

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

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- By mail at:
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Summary

The November 12, 2015 eligibility determination notice is RESCINDED.

The November 12, 2015 disenrollment notice is RESCINDED.

Your child's eligibility for and enrollment in Child Health Plus should have continued until December 31, 2015.

Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus coverage for December 2015 for the remainder of his twelve month eligibility which began on January 1, 2015.

The January 23, 2016 enrollment confirmation notice is also MODIFIED to indicate that his Child Health Plus plan for 2016 was effective as of January 1, 2016.

This determination has no effect on his Child Health Plus plan for 2016 which began on January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

