



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

Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006424

[REDACTED]

Dear [REDACTED],

On May 19, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 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 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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Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006424

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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 (NYSOH) properly determine that your child's coverage through Child Health Plus ended on December 31, 2015?

Procedural History

On October 19, 2015, your NYSOH account was updated to indicate that your child was seeking health insurance through NYSOH.

On October 22, 2015, NYSOH issued a renewal notice instructing you and your spouse to update your NYSOH account so that you could continue receiving health coverage for 2016.

On October 24, 2015, NYSOH issued an eligibility determination notice stating that your child was newly eligible to enroll in Child Health Plus for a cost of \$30.00 per month, effective December 1, 2015.

Also on October 24, 2015, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan, effective December 1, 2015.

On December 14, 2015 you updated your and your spouse's eligibility for 2016 coverage. That day, you marked your son as not needing health coverage through NYSOH.

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On December 16, 2015, NYSOH issued a disenrollment notice stating that your child's coverage through his Child Health Plus plan would end December 31, 2015.

On January 20, 2016, your NYSOH account was updated again to indicate that your child was seeking health insurance through NYSOH.

On January 21, 2016, NYSOH issued an eligibility determination notice that your child was conditionally eligible for Child Health Plus, with a premium of \$30.00 per month, effective March 1, 2016.

Also on January 21, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in his Child Health Plus plan, effective March 1, 2016.

On January 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the gap in coverage your child experienced from his disenrollment and reenrollment into Child Health Plus.

On May 16, 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, and the record reflects, that you are appealing only your child's eligibility.
- 2) The record indicates that your child's eligibility for Child Health Plus through NYSOH began December 1, 2015.
- 3) The record indicates that on December 14, 2015 your NYSOH account was updated to state that your child did not need insurance.
- 4) You testified that in December you accessed your NYSOH account to renew your and your spouse's eligibility. You stated that the NYSOH application asked if your son needed insurance and you selected no because he already had Child Health Plus.
- 5) You testified that you were not aware that your child was disenrolled from his Child Health Plus plan until you got a letter from the Child Health Plus carrier stating that your automatic payments had been stopped.

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 is whether NYSOH properly determined that your child’s enrollment in his Child Health Plus plan ended effective December 31, 2015.

On October 24, 2015, NYSOH issued a notice of eligibility determination stating that effective December 1, 2015 your child could enroll through Child Health Plus with a premium of \$30.00 per month. That eligibility determination has not been appealed and is not under review here.

Since the period of your child’s CHP eligibility began on December 1, 2015, it continues until November 30, 2015, unless an event occurs to disqualify them from eligibility. The record does not indicate that any Child Health Plus premiums were not timely paid, that your children gained access to or obtained other health insurance, or that a final determination was made making your children eligible for Medicaid.

The record indicates that on December 14, 2015 your NYSOH account was updated to state that your child did not need insurance. You testified that in December you accessed your NYSOH account to renew your and your spouse’s

eligibility. You stated that the NYSOH application asked if your son needed insurance and you selected no because he already had Child Health Plus.

Since NYSOH did not provide you with clear direction as to what would happen when you selected NO when you updated the eligibility for other members of the household, and because your child's twelve-month period of Child Health Plus eligibility that began had not expired, and no event had occurred to end that eligibility, your child's coverage should not have ended effective December 31, 2015.

Therefore, the December 16, 2015 disenrollment notice stating that your child's Child Health Plus coverage would end effective December 31, 2015 is **RESCINDED**.

Decision

The December 16, 2015 disenrollment notice stating that your child's Child Health Plus coverage would end effective December 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to ensure that your child's Child Health Plus coverage is restored effective January 1, 2016.

Effective Date of this Decision: May 27, 2016

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan is December 1, 2015. Your case is being sent back to ensure that he is enrolled into his plan for any months where he was without coverage

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month's your child 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.

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

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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
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- By fax: 1-855-900-5557

Summary

The December 16, 2015 disenrollment notice stating that your child's Child Health Plus coverage would end effective December 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to ensure that your child's Child Health Plus coverage is restored effective January 1, 2016.

The effective date of your child's Child Health Plus plan is December 1, 2015. Your case is being sent back to ensure that he is enrolled into his plan for any months where he was without coverage

You are responsible for paying the insurance carrier any Child Health Plus premiums that are owed for the month's your child experienced a gap in coverage.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

