



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: AP000000006469

[REDACTED]

Dear [REDACTED],

On May 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 2015 disenrollment notice and January 26, 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 § 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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Issues

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

Did NY State of Health (NYSOH) properly determine that your son's enrollment in his Child Health Plus plan ended December 31, 2015?

Did NYSOH properly determine that your son's re-enrollment in his Child Health Plus plan was effective March 1, 2016?

Procedural History

On February 24, 2015, NYSOH issued a notice of eligibility determination, stating that your son was conditionally eligible for Child Health Plus (CHP), effective April 1, 2015. Your son was subsequently enrolled in a CHP plan.

On December 7, 2015, you updated your NYSOH account. In that application, you indicated that your son still needed health insurance.

Also on December 7, 2015, it is noted under the "Events" tab in your account that your son's enrollment from his CHP plan had been "deleted."

On December 8, 2015, NYSOH issued a disenrollment notice, stating that your son's enrollment in his CHP plan coverage would end effective December 31, 2015 because he was no longer eligible to remain enrolled in his current health insurance.

Also on December 8, 2015, NYSOH issued an eligibility determination notice stating that your son was conditionally eligible to enroll in CHP for a \$9.00 monthly premium, effective January 1, 2016, and that you needed to pick a health plan.

On December 14, 2015, NYSOH issued a notice of enrollment confirmation which confirmed your enrollment and your spouse's enrollment into your Essential Plan coverage. That same notice advised you that your son's CHP coverage would not begin until you picked a plan for him.

On January 25, 2016, you updated your NYSOH account and selected a plan for your son.

On January 26, 2016, NYSOH issued a notice of enrollment confirmation, stating that your son was enrolled in a CHP plan, and that his coverage in that plan would start as of March 1, 2016.

Also on January 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your son's CHP plan, insofar as it did not begin January 1, 2016.

On May 25, 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 when you logged into your NYSOH account in December 2015, your son already had CHP coverage through NYSOH, and you were only trying to apply for coverage for yourself and your spouse.
- 2) You testified that, when you applied for coverage for yourself and your spouse, your son's coverage was also affected for some reason.
- 3) You testified that you did not receive either the December 8, 2015 disenrollment notice or the December 8, 2015 eligibility determination notice advising you to pick a plan for your son.
- 4) You testified that you were receiving notices from NYSOH by regular mail.

- 5) You testified that you did not know that your son had been disenrolled from his coverage until you started receiving bills for a doctor's appointment your son had in January 2016.
- 6) You testified that you called NYSOH regarding your son's coverage at the end of January 2016, and that the representative you spoke with informed you that there were notices in your NYSOH account inbox.
- 7) You testified that, when you tried to open the notices in the inbox, you were unable to, and that the files were blank when you downloaded them.
- 8) You testified that, when you filed your appeal with NYSOH, you informed the representative who assisted you that you were unable to view the notices in your inbox. You testified that the representative changed your contact preferences from regular mail to paperless, and the record reflects that your contact settings are currently set to paperless.
- 9) However, the notes from the representative who filed your request for an appeal on January 26, 2016 state that "The Application has now been updated to receive notices by mail." In fact, the account is still set for paperless notices.
- 10) The record reflects that, on January 25, 2016, you re-enrolled your son into the same CHP plan in which he was previously enrolled, with coverage starting on March 1, 2016.
- 11) You testified that you have an outstanding medical bill for your son for the month of January 2016.
- 12) You testified that you are seeking that your son be enrolled in his CHP plan as of January 1, 2016 so that he does not have a gap in coverage.

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

Applicable Law and Regulations

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

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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)).

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your son’s enrollment in his Child Health Plus plan ended December 31, 2015.

You testified that you logged into your NYSOH account on December 7, 2015 with the intention of applying for insurance coverage for yourself and your spouse. You further testified that you did not do anything to change your son’s coverage when you were logged in, as you knew he already had coverage through CHP at the time.

According to the information in your NYSOH account, the changes you made in your NYSOH account on December 7, 2015 resulted in your son being deleted from his enrollment in his CHP coverage. However, the record also reflects that, when you were updating your application on December 7, 2015, you answered “Yes” to the question “Needs Health Insurance?” with regard to your son.

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The fact that you indicated that your son still needed health insurance when you updated your NYSOH account on December 7, 2015, coupled with your testimony that your intention when logging into your account was only to apply for coverage for yourself and your spouse, and not to do anything with regard to your son's coverage, indicate that any disenrollment of your son on December 7, 2015 was inadvertent on your part, or caused by a defect in the system.

Further, because your son was found eligible for CHP coverage which began on April 1, 2015, barring other circumstances that are not present in this case, he was entitled to continuous coverage under his CHP plan for a full 12 months, until at least March 31, 2016.

Therefore, it is concluded that the system improperly disenrolled your son from his CHP coverage effective December 31, 2015.

The second issue under review is whether NYSOH properly determined that your son's enrollment in his Child Health Plus plan was effective March 1, 2016.

You credibly testified that you did not receive any notices in December 2015 from NYSOH, either by electronic alert or by regular mail, and therefore did not know that your son had been disenrolled from his CHP coverage, nor that you needed to select a plan for him. You testified that you thought you were receiving notices by regular mail, but that when you spoke to a representative from NYSOH in January 2016, you were informed that there were notices in your NYSOH inbox.

You further testified that when you attempted to open those notices, the downloaded files were blank. You testified that the representative you spoke to on January 26, 2016 indicated that he would change your preferences to paperless, but the notes from the representative indicate that your preferences were to be changed to regular mail instead. Your account currently shows your contact preferences as paperless.

As the record is unclear regarding how, if at all, the December 2015 disenrollment and eligibility determination notices were sent to you, and unclear as to the method by which they were supposed to be sent, it is concluded that you did not have proper notice that your son had been disenrolled from his CHP coverage effective December 31, 2015 and that you needed to re-enroll him in a plan.

On January 25, 2016, you selected a plan for your son, with coverage beginning as of March 1, 2016. Ordinarily, the start day for a plan selected after the fifteenth of the month is the first day of the second following month. Therefore, the March 1, 2016 start date for your son's CHP plan coverage would have been correct.

However, since you never intended to disenroll him or change his coverage when you updated your account on December 7, 2015 and his prior enrollment should never have ended, you should not have had to re-enroll him in coverage.

Therefore, the December 8, 2015 disenrollment notice is **RESCINDED**, and the January 26, 2016 enrollment confirmation notice is **MODIFIED** to state that your son's re-enrollment in his CHP plan coverage began January 1, 2016.

BE ADVISED THAT YOUR SON'S ELIGIBILITY FOR CHP COVERAGE IS STILL CONDITIONAL, PENDING VALID PROOF OF INCOME.

This means that failure to provide NYSOH with four weeks of recent consecutive paystubs showing gross income, **or** a signed, dated letter from your spouse's employer on company letterhead stating his gross income, could again lead to the termination of your son's coverage.

Decision

The December 8, 2015 disenrollment notice is **RESCINDED**.

The January 26, 2016 notice of enrollment confirmation is **MODIFIED** to state that your son's enrollment in his Child Health Plus plan is effective January 1, 2016.

Your case is **RETURNED** to NYSOH to effectuate the changes listed above, and to ensure that your son has no gap in his coverage.

Effective Date of this Decision: June 3, 2016

How this Decision Affects Your Eligibility

Your son should not have been disenrolled from his CHP coverage on December 31, 2015.

Your case is being sent back to NYSOH to reinstate your son into his CHP plan as of January 1, 2016, to ensure he does not have a gap in coverage.

PLEASE BE ADVISED YOUR SON'S ELIGIBILITY IS STILL CONDITIONAL, AND FAILURE TO SUBMIT INCOME DOCUMENTATION AS DESCRIBED ABOVE COULD LEAD TO THE TERMINATION OF HIS HEALTH INSURANCE 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 8, 2015 disenrollment notice is **RESCINDED**.

The January 26, 2016 notice of enrollment confirmation is **MODIFIED** to state that your son's enrollment in his Child Health Plus plan is effective January 1, 2016.

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Your case is RETURNED to NYSOH to effectuate the changes listed above, and to ensure that your son has no gap in his coverage.

Your son should not have been disenrolled from his CHP coverage on December 31, 2015.

Your case is being sent back to NYSOH to reinstate your son into his CHP plan as of January 1, 2016, to ensure he does not have a gap in coverage.

PLEASE BE ADVISED YOUR SON'S ELIGIBILITY IS STILL CONDITIONAL, AND FAILURE TO SUBMIT INCOME DOCUMENTATION AS DESCRIBED ABOVE COULD LEAD TO THE TERMINATION OF HIS HEALTH INSURANCE COVERAGE.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

