



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: AP000000006487

[REDACTED]

Dear [REDACTED],

On May 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2016 notice of enrollment.

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.

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 issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that the enrollment of your daughter in her Child Health Plus plan with Fidelis Care began effective March 1, 2016?

Procedural History

During 2015, your daughter was enrolled in a Child Health Plus (CHP) plan issued by Fidelis Care at a premium rate of \$9.00 per month.

On December 3, 2015, NYSOH received a revised application.

On December 4, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 3, 2015 application. The notice stated that your daughter was conditionally eligible to enroll in CHP for a cost of \$9.00 per month, effective January 1, 2016. In order to confirm your eligibility, NYSOH requested that you provide income documentation before February 1, 2016.

Also on December 4, 2015, NYSOH issued a disenrollment notice stating that your request to end your daughter's CHP coverage with Fidelis Care had been received on December 3, 2015. The notice further stated that your request had been processed and your daughter's coverage with Fidelis Care would end effective December 31, 2015.

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Finally, on December 4, 2015, NYSOH issued a notice of enrollment confirming that you had selected for your daughter's enrollment a CHP plan issued by Excellus BCBS as of December 3, 2015. The notice stated that your daughter's coverage could begin as early as January 1, 2016, provided you paid \$9.00 per month premium amount.

On January 27, 2016, NYSOH issued an additional notice of enrollment confirming that you had selected for your daughter's enrollment a CHP plan issued by Fidelis Care as of January 26, 2016. The notice stated that your daughter's coverage could begin as early as March 1, 2016, provided you paid \$9.00 per month premium amount. You spoke to NYSOH's Account Review Unit and appealed the start date of your daughter's CHP plan with Fidelis Care insofar as it did not begin January 1, 2016.

Also on January 27, 2016, NYSOH issued a disenrollment notice stating that your request to end your daughter's CHP coverage with Excellus BCBS had been received on January 26, 2016. The further stated that your request had been processed and your daughter's coverage with Fidelis Care would end effective February 29, 2016. However, your NYSOH account enrollment details reflect as of January 27, 2016 that your daughter's coverage under this plan was retroactively terminated effective January 1, 2016. There is no written notification formalizing the termination of your daughter's coverage as of January 1, 2016.

On May 24, 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 you are appealing only your daughter's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on December 3, 2015.
- 3) You testified that you met with an insurance broker, [REDACTED], on December 3, 2015, and confirmed with her that you wanted to continue your daughter's coverage with Fidelis Care during 2016.
- 4) You testified that you were not aware that she had changed your daughter's CHP plan coverage from Fidelis Care to Excellus BCBS, with this transition to take effect January 1, 2016.

- 5) You testified that you had started receiving paper notification from Excellus BCBS, but discarded them believing that they were inadvertently being sent to you because you had previously been enrolled in an Excellus BCBS plan.
- 6) You testified that you were notified by your daughter's physician during late January 2016, after an appointment, that she was not covered through Fidelis Care any longer.
- 7) You testified, and the record reflects, that you contacted NYSOH on or about January 26, 2016, to reinstate your daughter's CHP coverage with Fidelis Care.
- 8) Your daughter was reenrolled in Fidelis Care as her CHP plan with such coverage beginning March 1, 2016.
- 9) NYSOH issued a disenrollment notice on January 27, 2016 stating that your daughter's CHP coverage with Excellus BCBS would terminate effective February 29, 2016. However, you testified that you were informed by either a representative from Excellus BCBS or NYSOH that your daughter's coverage with Excellus BCBS had terminated as of January 1, 2016 due to not having paid the necessary premium amounts.
- 10) You testified that you need your daughter's CHP plan with Fidelis Care to begin on January 1, 2016 because you have an outstanding bill with your daughter's physician of approximately \$100.00. In the alternative, you testified that you would like the Excellus BCBS plan to be reinstated for both the months of January and February 2016.

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 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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The sole issue under review is whether NYSOH properly determined that the enrollment of your daughter in her Child Health Plus plan with Fidelis Care began effective March 1, 2016?

You testified that when you met with your insurance broker, [REDACTED], on December 3, 2015, she had elected to switch your daughter’s CHP coverage from Fidelis Care to Excellus BCBS, with this transition to take effect on January 1, 2016.

You further testified, and the record reflects, that you contacted NYSOH on January 26, 2016 and reenrolled your daughter into Fidelis Care as your daughter’s CHP plan.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the January 27, 2016 enrollment confirmation notice stating that your child’s enrollment in her CHP plan with Fidelis Care was effective March 1, 2016, is correct and must be AFFIRMED.

However, we find there is sufficient evidence that you were not provided proper notice by NYSOH that your daughter’s CHP coverage with Excellus BCBS had been terminated as of January 1, 2016 for non-payment of premiums. Indeed, the record contains a notice issued by NYSOH on January 27, 2016 stating that your daughter’s CHP coverage with Excellus BCBS would end of as February 29,

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2016. Accordingly, your case is RETURNED to NYSOH to reinstate your daughter's CHP coverage with Excellus BCBS between January 1, 2016 and February 29, 2016, provided the necessary premium amount is remitted to the insurance carrier.

Decision

The January 27, 2016 notice of enrollment is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your daughter's CHP coverage with Excellus BCBS between January 1, 2016 and February 29, 2016, provided the necessary premium amount is remitted to the insurance carrier.

Effective Date of this Decision: May 31, 2016

How this Decision Affects Your Eligibility

The effective date of your daughter's CHP plan with Fidelis Care is March 1, 2016.

Your daughter's CHP coverage with Excellus BCBS is reinstated between January 1, 2016 and February 29, 2016, provided the necessary premium amount is remitted to the insurance carrier.

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

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 27, 2016 notice of enrollment is AFFIRMED.

The effective date of your daughter's CHP plan with Fidelis Care is March 1, 2016.

Your daughter's CHP coverage with Excellus BCBS is reinstated between January 1, 2016 and February 29, 2016, provided the necessary premium amount is remitted to the insurance carrier.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

