



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

Notice of Decision

Decision Date: June 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006572

[REDACTED]

Dear [REDACTED],

On May 31, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 4, 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006572



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 enrollment in her Child Health Plus plan was terminated, effective December 31, 2015?

Procedural History

On July 22, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your July 21, 2015 application, stating that your child was eligible for Child Health Plus (CHP) with a \$9.00 monthly premium, effective September 1, 2015. That same day, your child was enrolled in a CHP plan.

On November 7, 2015, NYSOH issued a notice stating that it was time to renew your family'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 family would qualify for financial help paying for health coverage, and that you needed to update your account by December 15, 2015, or your family might lose the financial assistance you were currently receiving.

On November 26, 2015, you updated your NYSOH account.

On December 4, 2015, NYSOH issued an eligibility determination notice stating that you and your husband were eligible to receive advance payments of the premium tax credit, effective January 1, 2016. The notice did not include an eligibility determination for your child.

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Also on December 4, 2015, NYSOH issued a notice of disenrollment, which stated in part that your child's coverage in her CHP plan would be terminated effective December 31, 2015.

On January 27, 2016, NYSOH received your child's updated application for health insurance.

On January 28, 2016, NYSOH issued a notice of eligibility determination, based on your January 27, 2016 application, stating that your child was eligible to enroll in CHP with a \$9.00 monthly premium, effective March 1, 2016.

Also on January 28, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her CHP plan coverage on December 31, 2015.

On January 29, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 28, 2016, stating that your child was enrolled in a CHP plan, and that coverage would start on March 1, 2016.

On May 31, 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 receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you logged on to your NYSOH account on November 26, 2015 to update your application for yourself and your spouse after receiving the November 7, 2016 renewal notice.
- 3) You testified that when you went into your account on November 26, 2015 and saw your daughter's name on the application, you thought it was a mistake because you knew she already had coverage through CHP.
- 4) You testified that you marked that your daughter did not need insurance on your November 26, 2015 application because you were trying to make sure that your daughter wasn't receiving health insurance on two different accounts. You testified that you wanted to make sure she remained in her CHP coverage, and that she was not somehow added to your and your spouse's insurance plan.

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- 5) You testified that you had paid your daughter's CHP plan premiums through the end of February 2016 by some point in November or December 2015 because you were going to be traveling in February 2016 and wanted to make sure that your daughter had coverage during that time.
- 6) You testified that you did not receive the December 4, 2015 notice that stated that your daughter was being disenrolled from her CHP plan coverage as of December 31, 2015.
- 7) You testified that you did not know that your daughter's coverage had ended until you took your daughter to an urgent care facility in January 2016 and were told that your daughter did not have coverage.
- 8) You testified that you have one outstanding medical bill for your daughter from the urgent care visit in January 2016.
- 9) The record reflects that on January 27, 2016, NYSOH received your daughter's updated application for health insurance.
- 10) You testified that you are seeking for your daughter's coverage be reinstated for 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)).

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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 issue under review is whether NYSOH properly terminated your child's enrollment in her CHP plan, effective December 31, 2015.

Your daughter was originally found eligible for CHP effective September 1, 2015. The period of eligibility for CHP coverage is that period starting on the first day of the month in which the child is eligible, and ending on the last day of the twelfth month following such date, unless the CHP premiums are not 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.

Your daughter should have remained eligible for CHP for a continuous 12-month period that started on September 1, 2015, and would be due to end on August 31, 2016. There is no evidence in the record to suggest that any of the exceptions to this "continuous coverage" occurred. Additionally, your daughter should not have been included on the November 7, 2015 renewal notice, as her coverage was not due to be renewed.

However, because you marked that she did not need health insurance when you went in to renew your application for coverage for yourself and your spouse, your daughter's coverage was terminated and her enrollment from her CHP plan was deleted. You testified credibly that you did not understand that answering "No" to the question that asked whether your daughter would need health insurance would cause her to lose her insurance. You testified that you believed you were simply ensuring that she would not also have coverage and receive financial assistance through your application.

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The NYSOH Appeals Unit cannot view the application as it appeared to you when you updated your account on November 26, 2015. However, the question "Needs Health Insurance?" is viewable, and this question is marked "No" next to your daughter's name on your November 26, 2015 application. A reasonable person could easily conclude that this question should be answered "No" when the person in question already has coverage, even coverage that has been provided through NYSOH. You testified that you came to this very conclusion, and that you believed you were only ensuring that your daughter would not have coverage on two different accounts. Taken with your credible testimony that you had paid your daughter's CHP plan premiums through February 2016, it is concluded that your daughter's disenrollment from her CHP coverage as of December 31, 2015 was caused by a reasonable misunderstanding of a confusing application.

You also testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the December 4, 2015 disenrollment notice, which stated that your daughter's CHP plan coverage was ending as of December 31, 2015. There is no evidence in your account documenting that any email alert was sent to you regarding this notice.

Therefore, it is concluded that NYSOH did not give your proper notice that your daughter's enrollment in her CHP plan coverage was ending.

Therefore, the December 4, 2015 disenrollment notice is partially RESCINDED, insofar as it disenrolled your daughter from her CHP plan coverage.

Your case is RETURNED to NYSOH to facilitate your daughter's re-enrollment into her CHP plan for the months of January and February 2016.

Decision

The December 4, 2015 notice of disenrollment is partially RESCINDED, insofar as it stated that your daughter's enrollment in her CHP plan coverage ended as of December 31, 2015.

Your case is RETURNED to NYSOH to facilitate your daughter's re-enrollment into her CHP plan coverage for the months of January and February 2016 so that there is no gap in her coverage.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

Your daughter's CHP coverage should not have terminated as of December 31, 2015.

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan for the months of January and February 2016 so that she does not have 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 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

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Summary

The December 4, 2015 notice of disenrollment is partially RESCINDED insofar as it stated that your daughter's enrollment in her CHP plan coverage ended as of December 31, 2015.

Your case is RETURNED to NYSOH to facilitate your daughter's re-enrollment into her CHP plan coverage for the months of January and February 2016 so that there is no gap in her coverage.

Your daughter's CHP coverage should not have terminated as of December 31, 2015.

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan for the months of January and February 2016 so that she does not have a gap in coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

