



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: AP000000006616

[REDACTED]

Dear [REDACTED],

On June 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 30, 2016 eligibility determination 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.

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

Decision

Decision Date: June 23, 2016

NY State of Health Account ID: AC0002879845
Appeal Identification Number: AP000000006616



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 children's eligibility for coverage through Child Health Plus was effective March 1, 2016?

Procedural History

On January 14, 2015 NY State of Health (NYSOH) issued a notice of eligibility determination, based on your January 13, 2015 application, stating that your children were eligible for Child Health Plus (CHP), effective February 1, 2015. Your children were subsequently enrolled in a CHP plan.

On December 18, 2015, NYSOH issued a notice stating that it was time to renew your children'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 children would qualify for financial help paying for their health coverage, and that you needed to update your account by January 15, 2016 or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by January 15, 2016.

On January 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the

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renewal within the required time frame. Your children's eligibility ended effective January 31, 2016.

Also on January 17, 2016, NYSOH issued a disenrollment notice, stating that you children's coverage in their CHP plan would end effective January 31, 2016.

On January 29, 2016, NYSOH received your children's updated application for health insurance. That day, NYSOH prepared a preliminary eligibility determination, stating that your children were eligible for CHP coverage with a \$15.00 monthly premium, effective March 1, 2016.

Also on January 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP coverage, insofar as it did not begin February 1, 2016.

On January 30, 2016, NYSOH issued a notice of eligibility determination, based on your January 29, 2016 application, stating that your children were eligible to enroll in CHP with a \$15.00 monthly premium, effective March 1, 2016.

Also on January 30, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 29, 2016, stating that your children were enrolled in a CHP plan, and that coverage would start on March 1, 2016.

On June 13, 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 did receive an email in December 2015 from NYSOH telling you that there was an important notice in your NYSOH account. You testified that when you tried to log into your NYSOH account to view the notice, you were unable to log in at all.
- 3) You testified that you have never been able to log into your NYSOH account.
- 4) You testified that you attempted to contact NYSOH's customer service for assistance with logging in to your NYSOH account within a week of receiving the December 2015 email.

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- 5) You testified that when you called NYSOH, there was an option to leave a voicemail instead of waiting on hold, with a message that someone would call you within 24 hours. You testified that you left a voicemail and did not receive a call back.
- 6) You testified that you called NYSOH again, and when you were able to speak with someone, they were unable to assist you with logging in or changing your password. You also testified that no one from NYSOH told you that you could change your contact preferences, and that no one informed you that the email you received was regarding the need to renew your children's insurance.
- 7) You testified that you became aware that your children did not have coverage for February 2016 when you received another email from NYSOH in January 2016 regarding a notice in your account. You testified that you again called NYSOH's customer service, and when you were able to reach a supervisor, you found out that your children's coverage had ended.
- 8) You testified that the supervisor you spoke with was able to update your application and enroll your children in CHP coverage with a March 1, 2016 start date.
- 9) The record reflects that on January 29, 2016, NYSOH received your children's updated application for health insurance.
- 10) You testified that you were able to enroll your children in coverage through your employer for the month of February 2016, so you do not have any outstanding medical bills for that month.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

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NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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 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 only issue under review is whether NYSOH properly determined that your children's eligibility for CHP was effective March 1, 2016.

Your children were originally found eligible for CHP effective February 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's December 18, 2015 renewal notice stated that there was not enough information to determine whether your children were eligible to continue to receive financial assistance for health insurance for the upcoming coverage year, and that you needed to supply additional information by January 15, 2016, or any such financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their CHP plan, effective January 31, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that, while you received an electronic alert that there was a notice for you to review in your account, you were unable to log in to your NYSOH account to review this notice. You further credibly testified that, when you contacted NYSOH's customer service in December 2015 for assistance with getting in to your account, no one was able to assist you with logging in, nor did they tell you that you could change your contact preferences to receive notices through regular mail. Most importantly, the representative you spoke with did not tell you that the reason you received an email was that it was time to renew your children's application for health insurance. You further testified that it was not until you were able to speak with a supervisor in January that you finally found out that your children's coverage had ended.

Therefore, because you were unable to log in to your NYSOH account to view notices, because NYSOH failed to return your call as it stated it would, and because the representatives from NYSOH failed to assist you with logging in and failed to notify you that you needed to renew your children's application, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your children's behalf.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on January 29, 2016, and therefore we must presume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the January 30, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children are eligible to enroll in Child Health Plus with a \$15.00 premium per month.

Since you testified that you were able to secure private insurance coverage for your children for the month of February 2016, your children's CHP enrollment will not be backdated to February 1, 2016 UNLESS you contact NYSOH and request that the enrollment start date be backdated to February 1, 2016.

Should you choose to enroll your children in their CHP plan for the month of February 2016, you are responsible for any applicable premiums for that month.

Decision

The January 30, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children are eligible to enroll in Child Health Plus with a \$15.00 premium per month.

Effective Date of this Decision: June 23, 2016

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of February 1, 2016.

However, since you testified that you secured private insurance coverage for your children for the month of February 2016, your children's CHP plan enrollment will NOT be backdated UNLESS you contact NYSOH and request that their enrollment date be backdated to February 1, 2016.

If you choose to have your children's CHP plan enrollment backdated to February 1, 2016, you will be responsible for any applicable premiums for that month.

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 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 January 30, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your children are eligible to enroll in Child Health Plus with a \$15.00 premium per month.

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of February 1, 2016.

However, since you testified that you secured private insurance coverage for your children for the month of February 2016, your children's CHP plan enrollment will NOT be backdated UNLESS you contact NYSOH and request that their enrollment date be backdated to February 1, 2016.

If you choose to have your children's CHP plan enrollment backdated to February 1, 2016, you will be responsible for any applicable premiums for that month.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

