



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number(s): AP000000006757, AP000000010210

[REDACTED]

Dear [REDACTED],

On June 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 28, 2016, February 3, 2016 and June 6, 2016 eligibility determination notices.

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 NY State of Health 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).

This page intentionally left blank.



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

Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number(s): AP000000006757, AP000000010210



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 daughter's eligibility for and enrollment in her Child Health Plus plan was effective March 1, 2016?

Did NYSOH properly determine that your child was eligible to enroll in Child Health Plus with a \$45.00 per month premium, effective July 1, 2016?

Procedural History

On January 6, 2015, NYSOH issued a notice of eligibility determination, based on your January 5, 2015 application, stating that your daughter was newly eligible for coverage through Child Health Plus (CHP) with a premium of \$30.00 per month, effective February 1, 2015. Your child was subsequently enrolled in a CHP plan.

On December 21, 2015, NYSOH issued a notice that it was time to renew your daughter's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your daughter would qualify for financial help paying for her health coverage, and that you needed to update your account by January 15, 2016 or your daughter might lose the financial assistance she was then receiving.

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

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).

On January 17, 2016, NYSOH issued an eligibility determination notice stating that your daughter was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your daughter 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 your daughter's renewal within the required time frame. Your daughter's eligibility ended January 31, 2016.

Also on January 17, 2016, NYSOH issued a disenrollment notice stating that your daughter's CHP coverage with CDPHP would end effective January 31, 2016.

On January 27, 2016, NYSOH received your daughter'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 daughter was conditionally eligible to enroll in CHP with a \$30.00 monthly premium, effective March 1, 2016. You were directed to provide income documentation before March 27, 2016 to confirm her eligibility, or her financial assistance or eligibility to enroll through NYSOH might end.

Also on January 28, 2016, NYSOH issued a notice of enrollment, based on your plan selection on January 27, 2016, stating that your daughter was enrolled in a CHP plan and that coverage would start on March 1, 2016, at a premium rate of \$30.00 per month.

On February 2, 2016, NYSOH received a revised application. In response to this application, NYSOH prepared a preliminary eligibility determination stating that your daughter was eligible for coverage with CHP for a cost of \$30.00 per month.

Also on February 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your daughter's CHP plan insofar as it did not begin February 1, 2016.

On February 3, 2016, NYSOH issued a notice of eligibility redetermination, based on your February 2, 2016 application, stating that your daughter was conditionally eligible to enroll in CHP with a \$30.00 monthly premium, effective March 1, 2016, pending receipt of income documentation before April 2, 2016 to confirm her eligibility.

On June 5, 2016, NYSOH redetermined your eligibility based on your February 2, 2016 application.

On June 6, 2016, NYSOH issued a notice of eligibility redetermination, stating that your daughter was fully eligible to enroll in CHP with a \$45.00 monthly

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).

premium, effective July 1, 2016, pending receipt of income documentation before April 2, 2016 confirm her eligibility.

Also on June 6, 2016, NYSOH issued a notice of enrollment stating that your daughter continued to be enrolled in CDPHP as her CHP plan, and the premium rate increased to \$45.00 per month.

On June 10, 2016, you spoke to NYSOH's Account Review Unit and appealed the June 6, 2016 eligibility determination insofar as the premium due for your daughter's CHP plan increased from \$30.00 to \$45.00 per month, effective July 1, 2016.

On June 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: the four most recent earnings statement issued to you by your employer, the [REDACTED]. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided the above referenced documents to the Appeals Unit through your NYSOH account.

Accordingly, the record was closed on June 16, 2016.

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 regular mail.
- 2) You testified that you did not receive any notices telling you that you needed to update your application in order to renew your daughter's coverage.
- 3) You testified that you did not know that you needed to update your account until you had received a disenrollment notice from NYSOH informing you that your daughter's CHP coverage with CDPHP had terminated as of January 31, 2016.
- 4) The record reflects that on January 27, 2016, NYSOH received your daughter's updated application for health insurance. In this application, you attested to expected annual income of \$57,000.00, which was comprised solely of earned income you would receive from

your employer, the [REDACTED] You testified that the figure was accurate when you updated your application on February 2, 2016.

- 5) No income documentation was submitted by April 2, 2016, or even by June 5, 2016.
- 6) You testified, and the record reflects, that you received a raise from your employer in mid to late May 2016, which raised your expected annual income from \$57,000.00 to \$59,000.00.
- 7) You testified that you are seeking that your daughter be enrolled in her CHP plan as of February 1, 2016, since she incurred two hospital bills during the month of February 2016 for which she was not covered by her CHP plan coverage with CDPHP.
- 8) Your eligibility was redetermined on June 5, 2016, in the absence of any income documentation, based, in part, on the information contained in your account as of February 2, 2016.
- 9) On June 6, 2016, NYSOH redetermined your daughter fully eligible for coverage through CHP at a premium rate of \$45.00 per month, effective July 1, 2016.
- 10) You testified that you expected to file your 2016 taxes with a tax filing status of married filing jointly. You will claim your daughter as your dependent on that tax return.
- 11) The application that was submitted on February 2, 2016 listed annual household income of \$57,000.00, consisting of solely of income you receive from your employment with the [REDACTED]
- 12) On June 16, 2016, you provided to NYSOH Appeals Unit four earning statement issued by your employer reflecting that you received: (1) \$2,375.00 on April 29, 2016, (2) \$2,375.00 on May 13, 2016, (3) \$2,429.32 on May 31, 2016, and (4) \$2,458.33 on June 15, 2016.
- 13) At the time of NYSOH's redetermination of your daughter's eligibility on June 5, 2016, your daughter was thirteen years old.
- 14) Your application states that you will not be taking any deductions on your 2016 tax return.
- 15) You testified that you were seeking to have the \$45.00 per month CHP premium reduced back to \$30.00 per month since you didn't believe the increase in premium amount was justified based on your current expected annual earnings.

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)).

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 (PHL) § 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

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).

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).

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) (NY 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 PHL § 2511(2)(b)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY PHL § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (NY PHL § 2510(9)(d)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (NY PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL (NY PHL § 2510(9)(d)(v)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your daughter's enrollment in her CHP plan was effective March 1, 2016.

Your child was originally found eligible for CHP effective February 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP once every 12 months, without requiring information from the individual if 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 21, 2015 renewal notice stated that there was not enough information to determine whether your daughter was eligible to continue their financial assistance for

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).

health insurance, and that you needed to supply additional information by January 15, 2016, or financial assistance might end.

Because there was no timely response to this notice, your child's enrollment in her CHP plan was terminated effective January 31, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account on your child's behalf. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your daughter's annual renewal and that information in your NYSOH account needed to be updated in order to ensure your child's enrollment in her CHP plan and eligibility for financial assistance would continue.

You first renewed your child's eligibility for financial assistance through NYSOH on January 27, 2016, and enrolled your child into a CHP plan that day. You further revised your application on February 2, 2016, and reconfirmed your enrollment in that same CHP plan on that day.

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 on or before the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month goes into effect on the first day of the second following month.

Therefore, NYSOH's January 28, 2016 and eligibility determination notice and February 3, 2016 notices are AFFIRMED because they properly began your daughter's eligibility for and enrollment in CHP on March 1, 2016.

The second issue under review is whether NYSOH properly determined that your daughter was eligible to enroll in CHP with a \$45.00 per month premium, effective July 1, 2016.

You did not submit income documentation by April 1, 2016, or even June 5, 2016, as you were directed to do. Therefore, NYSOH redetermined your daughter's eligibility without the benefits of that documentation, and found that her premiums should be \$45.00 per month, noting that you did not send in documentation to confirm your income.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Premiums are on a sliding scale, dependent upon income. Since you failed to

provide documentation as directed, NYSOH was within its authority to increase your premiums based on information regarding your income it received through state and federal data sources.

Decision

The January 28, 2016, February 3, 2016, and June 6, 2016 eligibility determination notices are AFFIRMED.

However, since you have submitted additional income documentation, your case is being RETURNED to NYSOH to redetermine your eligibility for CHP subsidies.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

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

The premium for your daughter's enrollment in her CHP plan will remain unchanged; however, your eligibility for financial assistance will be redetermined based on your new evidence.

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

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).

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 28, 2016, February 3, 2016, and June 6, 2016 eligibility determination notices are AFFIRMED.

However, since you have submitted additional income documentation, your case is being RETURNED to NYSOH to redetermine your eligibility for CHP subsidies.

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

The premium for your daughter's enrollment in her CHP plan will remain unchanged; however, your eligibility for financial assistance will be redetermined based on your new evidence.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

