



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006896

[REDACTED]

Dear [REDACTED],

On August 30, 2016, you and your spouse, acting as your Authorized Representative, appeared by telephone at a hearing on your appeal of NY State of Health's March 26, 2015 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006896

[REDACTED]

Issue

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

Did the NY State of Health (NYSOH) properly determine that the enrollment of your two sons in Excellus BCBS, as their Child Health Plus plan, was effective May 1, 2015?

Procedural History

On March 10, 2015, NYSOH received a revised application for health insurance for your children under your spouse's account, [REDACTED].

Also, on March 10, 2015, NYSOH received two applications for health insurance under your account, [REDACTED].

On March 11, 2015, NYSOH issued an eligibility determination notice based on the information contained in your spouse's application in account [REDACTED]. The notice stated that your two sons were eligible to enroll in Child Health Plus (CHP) with a \$60.00 monthly premium each, effective April 1, 2015, based on a declared annual income of \$89,400.00.

Also on March 11, 2015, NYSOH issued a notice of enrollment under [REDACTED], based on your spouse's plan selection on March 10, 2016, stating that your two sons were enrolled in Excellus BCBS as their CHP plan, and that this enrollment in the plan would start April 1, 2015.

Also on March 11, 2015, NYSOH issued an eligibility determination notice under your account, [REDACTED], based on the information contained in the last March 10, 2015 application. The notice stated that your two sons were each newly eligible to enroll in Child Health Plus (CHP) with a \$15.00 monthly premium, effective April 1, 2015, based on a declared annual income of \$57,700.00.

Finally on March 11, 2015, NYSOH issued a notice of enrollment, based on your plan selection on March 10, 2016 under your account, [REDACTED], stating that your two sons were enrolled in Fidelis Care, as their CHP plan, and that this enrollment in the plan would start April 1, 2015.

On March 24, 2015, NYSOH issued a cancellation notice under your spouse's account, [REDACTED], stating that your sons' coverage with Excellus BCBS would end effective April 1, 2015. This was because your sons' were no longer eligible to enroll in their current health insurance.

On March 26, 2015, NYSOH issued a cancellation notice under [REDACTED] regarding your March 25, 2015 request to cancel your sons' insurance coverage with Fidelis Care. The notice stated that your request had been processed, and that you would not have coverage with Fidelis Care.

Also on March 26, 2015, NYSOH issued a notice of enrollment under [REDACTED], based on your plan selection on March 25, 2015, stating that your two sons were enrolled in Excellus BCBS, as their CHP plan, and that this enrollment in the plan would start May 1, 2015.

On February 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your sons' coverage with Excellus BCBS, as their CHP plan, insofar as it did not begin April 1, 2015.

On June 26, 2016, NYSOH received a completed Authorized Representative Designation Form reflecting that you wished for your spouse, [REDACTED], to act as your Authorized Representative for all matters related to your account, including the appeal.

On August 30, 2016, you and your spouse 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) Your spouse testified that you are appealing only your sons' CHP enrollment.
- 2) Your spouse testified that you switched coverage for your sons from your spouse's account, [REDACTED], to your account, [REDACTED], during early March 2015.
- 3) Your sons' CHP coverage with Excellus BCBS was terminated under your spouse's account, effective April 1, 2015.
- 4) The record reflects that you submitted an application under your account to NYSOH for financial assistance on March 10, 2015.
- 5) Your spouse testified, and the record reflects, that you enrolled your children into Fidelis Care, as their CHP, plan on March 10, 2015. Their coverage was scheduled to begin on April 1, 2015.
- 6) You spouse testified that you sought to change their CHP enrollment from Excellus BCBS to Fidelis Care in order to see whether your entire family would be able to obtain coverage through NYSOH. Your spouse further testified that you spoke to [REDACTED], a Fidelis Care representative in order to make this election, and that she assured you there would not be a gap in your sons' coverage as a result of this change in CHP plan.
- 7) Your spouse testified that your younger son was originally scheduled to have [REDACTED] on March 25, 2015, but this was later rescheduled to April 1, 2015.
- 8) Your spouse testified that on or about March 25, 2016, you changed your sons' CHP enrollment back to Excellus BCBS in order to resume their coverage they had under your spouse's account.
- 9) Your sons were reenrolled in Excellus BCBS, effective May 1, 2016, and their coverage under Fidelis Care was cancelled effective April 1, 2016.
- 10) Your spouse testified that as a result of your sons not having coverage during the month of April 2015, you incurred approximately \$21,000.00 in out-of-pocket medical costs associated with your younger son's [REDACTED]

11) Your spouse testified that you were seeking to have your sons' CHP coverage under Excellus BCBS begin no later than April 1, 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 your sons' enrollment in Excellus BCBS, as their CHP plan, was effective May 1, 2015.

Your spouse testified that you sought to switch your sons' coverage from your spouse's NYSOH account to your own. The record reflects that your sons' CHP coverage with Excellus BCBS ended under your spouse's account, effective April 1, 2015.

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The record also reflects that you enrolled your sons in Fidelis Care, as their CHP coverage, on March 10, 2015. Their coverage with Fidelis Care was scheduled to begin effective April 1, 2015. Your spouse testified that you made the enrollment plan switch to see whether your entire family would be able to obtain coverage through NYSOH; however, only your sons were reenrolled in CHP coverage at that time.

Your spouse testified, and the record reflects, that you contacted NYSOH on March 25, 2015 to reenroll your sons into Excellus BCBS as their CHP plan. As a result of this change of enrollment, your sons' CHP coverage with Fidelis Care was terminated effective April 1, 2015 since it had effectively never begun; there is no evidence that you paid the premium amount to Fidelis Care in order for that plan to begin.

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 March 26, 2015 notice of enrollment stating that your sons' reenrollment in Excellus BCBS as their CHP plan was effective May 1, 2015, is correct and must be AFFIRMED.

Decision

The March 26, 2015 notice of enrollment is AFFIRMED.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

This decision does not change your sons' eligibility.

The effective date of your child's CHP plan coverage with Excellus BCBS is May 1, 2015.

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.

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).

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 March 26, 2015 notice of enrollment is AFFIRMED.

This decision does not change your sons' eligibility.

The effective date of your child's CHP plan coverage with Excellus BCBS is May 1, 2015.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

