



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

Notice of Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006950

[REDACTED]

Dear [REDACTED],

On August 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 30, 2015 and December 4, 2015 enrollment confirmation 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).

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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006950



Issue

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

Did the NY State of Health properly determine that your child's enrollment in her Child Health Plus plan was effective January 1, 2016?

Procedural History

On October 30, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your October 29, 2015 updated application, stating that both of your children were newly eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2015.

Also on October 30, 2015, NYSOH issued an enrollment notice that in part stated you needed to pick a Child Health Plus plan for your children as coverage could not begin until you do so. The notice also confirmed that you were enrolled in an Excellus Blue Cross Blue Shield (BCBS) silver-level qualified health plan as of December 1, 2015.

On December 4, 2015, NYSOH issued an eligibility redetermination notice that stated your eldest child was eligible to enroll in the Essential Plan, effective January 1, 2016, and your younger child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective January 1, 2016.

Also on December 4, 2015, NYSOH issued an enrollment notice confirming your and your eldest child's enrollment in a BCBS Essential Plan, effective January 1,

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2016, and your younger child's enrollment in a BCBS Child Health Plus plan, effective January 1, 2016.

On January 27, 2016, NYSOH issued an eligibility determination notice that stated your request for help paying for her medical bills for December 1, 2015 through December 31, 2015 was denied because the program she was eligible for, Child Health Plus, cannot pay for any care she received in the past.

On February 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your younger child's Child Health Plus plan insofar as it did not begin December 1, 2015.

On August 10, 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 younger child's enrollment start date in her BCBS Child Health Plus plan.
- 2) You submitted an application to NYSOH for financial assistance on October 29, 2015, with the assistance of a Navigator.
- 3) You testified that you reviewed the plans on October 29, 2015 with the Navigator and informed him that you wanted to stay enrolled with BCBS and wanted your children enrolled in a BCBS Child Health Plus plan, as well. You testified that you were under the impression at the end of the session with the Navigator that you and your children were all set for coverage to begin December 1, 2015, in your respective health plans and you did not need to do anything further.
- 4) According to your NYSOH account, your Child Health Plus plan selection for your two children was not processed on October 29, 2015, and the corresponding October 30, 2015 notice confirmed that you needed to pick a Child Health Plus plan for their coverage to start.
- 5) You testified that you feel you applied in time and selected a Child Health Plus plan on time for your younger child's coverage in her BCBS Child Health Plus plan to begin as of December 1, 2015.

- 6) You testified that you need your younger child's Child Health Plus plan to begin on December 1, 2015, because you incurred expenses related to her medical care that month.

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 issue is whether NYSOH properly determined that your younger child's enrollment in her Child Health Plus plan was effective January 1, 2016 and not December 1, 2015.

You testified that you contacted NYSOH on October 29, 2015, and believed the Navigator who was assisting you had enrolled your children into a Child Health Plus plan that date.

Ordinarily, 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.

You credibly testified that, on October 29, 2015, you told the Navigator to put all of your household members into BCBS health plans for a December 1, 2015 start date. You further credibly testified that you were under the impression that your health plan selections were all set in that the Navigator successfully processed all three of your BCBS health plan selections for a December 1, 2015 start date, and you didn't think you had to do anything further with your account. However, the record demonstrates that the Navigator you worked with on October 29, 2015, only confirmed your health plan selection for a December 1, 2015 start date.

According to your NYSOH account, you and your Navigator next contacted NYSOH on December 3, 2015, to update your coverage for 2016. You testified that this is when you realized your children were not enrolled in BCBS Child Health Plus for December 2015. On December 3, 2015, your children's enrollments were processed for 2016. Your eldest child was enrolled in an Essential Plan, effective January 1, 2016, and your younger child was enrolled in a Child Health Plus plan, effective January 1, 2016, as stated in the December 4, 2015 enrollment confirmation notice.

Based on the foregoing, it is reasonable to conclude that, but for Navigator error in not enrolling your children in the BCBS Child Health Plus plan you had selected on October 29, 2015, your children would have been enrolled in their BCBS Child Health Plus plan as the first day of the second following month; that is, as of December 1, 2015.

Therefore, the October 30, 2015 eligibility determination notice is **AFFIRMED** as it relates to your younger child's eligibility to enroll in Child Health Plus, effective December 1, 2015.

The October 30, 2015 enrollment confirmation notice stating that you needed to pick a plan for your children's coverage to start is **MODIFIED** with regard to your younger child only to state that her enrollment in her BCBS Child Health Plus plan is effective December 1, 2015.

Similarly, the December 4, 2015 enrollment confirmation notice stating that she is enrolled in BCBS Child Health Plus, effective January 1, 2016, is **MODIFIED** to in relevant part to state she is enrolled in that health plan as of December 1, 2015.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Decision

The October 30, 2015 eligibility determination notice is AFFIRMED as it relates to your younger child's eligibility to enroll in Child Health Plus, effective December 1, 2015.

The October 30, 2015 enrollment confirmation notice stating that you needed to pick a plan for your children's coverage to start is MODIFIED with regard to your younger child only to state that her enrollment in her BCBS Child Health Plus plan is effective December 1, 2015.

The December 4, 2015 enrollment confirmation notice stating that your younger child is enrolled in BCBS Child Health Plus, effective January 1, 2016, is MODIFIED in relevant part to state she is enrolled in that health plan as of December 1, 2015.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

This decision does not change your younger child's eligibility.

The effective date of your younger child's Child Health Plus plan is December 1, 2015.

Your case is being returned to NYSOH to effectuate the change in the start date of her Child Health Plus plan coverage to December 1, 2015. NYSOH will notify you once this has occurred.

You will be responsible for the monthly premium for December 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 October 30, 2015 eligibility determination notice is **AFFIRMED** as it relates to your younger child's eligibility to enroll in Child Health Plus, effective December 1, 2015.

The October 30, 2015 enrollment confirmation notice stating that you needed to pick a plan for your children's coverage to start is **MODIFIED** with regard to your younger child only to state that her enrollment in her BCBS Child Health Plus plan is effective December 1, 2015.

The December 4, 2015 enrollment confirmation notice stating that your younger child is enrolled in BCBS Child Health Plus, effective January 1, 2016, is

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MODIFIED in relevant part to state she is enrolled in that health plan as of December 1, 2015.

Your case is RETURNED to NYSOH to effectuate this change and to notify you accordingly.

This decision does not change your younger child's eligibility.

The effective date of your younger child's Child Health Plus plan is December 1, 2015.

Your case is being RETURNED to NYSOH to effectuate the change in the start date of her Child Health Plus plan coverage to December 1, 2015. NYSOH will notify you once this has occurred.

You will be responsible for the monthly premium for December 2015.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

