



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: AP000000007326



Dear [REDACTED],

On July 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 24, 2016 enrollment 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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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Issue

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

Did New York State of Health (NYSOH) properly determine that your child's enrollment in Child Health Plus (Fidelis Care) should start April 1, 2016?

Procedural History

On January 30, 2015 NYSOH issued an eligibility determination notice stating that your child was conditionally eligible to enroll through Child Health Plus, with a \$9.00 premium, effective as of March 1, 2015.

On January 14, 2016, NYSOH issued a notice that it was time to renew your child's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for your health coverage, and that you needed to update your account by February 15, 2016 or you might lose the financial assistance you were currently receiving.

On February 18, 2016, NYSOH issued a notice stating, in relevant part, that you had not responded to the renewal notice, and your child was no longer eligible for financial assistance. The notice stated that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective as of March 1, 2016.

On February 18, 2016, NYSOH issued a disenrollment notice stating that your child's Fidelis Care coverage would end effective February 29, 2016.

On February 23, 2016, your NYSOH account was updated. The NYSOH issued a preliminary eligibility determination that your child was eligible for Child Health Plus.

Also on February 23, 2016, you spoke to the NYSOH Account Review Unit and requested an appeal insofar as the enrollment start date of your child's Child Health Plus plan.

On February 24, 2016, NYSOH issued an eligibility redetermination notice stating that your child was eligible for Child Health Plus, for a cost of \$9.00 per month, effective as of April 1, 2016.

Also on February 24, 2016, NYSOH issued an enrollment notice confirming that as of February 23, 2016, your child was enrolled in Child Health Plus (Fidelis Care) with a plan enrollment start date of April 1, 2016.

On July 27, 2016 you had a telephone hearing with a Hearing Officer from the 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) On January 30, 2015 NYSOH issued an eligibility determination notice stating that your child was conditionally eligible to enroll through Child Health Plus, with a \$9.00 premium, effective as of March 1, 2015 [REDACTED].
- 2) On January 14, 2016, NYSOH issued a notice that it was time to renew your child's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for your health coverage, and that you needed to update your account by February 15, 2016 or you might lose the financial assistance you were currently receiving [REDACTED].
- 3) According to your NYSOH account and testimony, you receive notices from NYSOH via regular mail.
- 4) You testified that you do not recall receiving a renewal notice from NYSOH to ensure that your child's coverage would not be interrupted.
- 5) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.

- 6) You testified that you did not incur any medical bills during your child's lapse in health coverage.
- 7) According to your NYSOH account, you selected Fidelis Care as your child's Child Health Plus plan on February 23, 2016, with a plan enrollment start date of 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 Renewal:

In general, the NYSOH must review Child Health Plus eligibility once every twelve months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). The NYSOH must make its "redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2), 42 CFR § 457.343).

The NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

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 the NYSOH properly determined that your child’s Child Health Plus plan enrollment start date should be April 1, 2016.

Your child was found conditionally eligible for Child Health Plus in 2015, effective March 1, 2015.

Generally, NYSOH must redetermine a qualified individual’s eligibility for Child Health Plus once every twelve 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 January 14, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible for financial assistance for their health insurance coverage in 2016, and that you needed to update your account by February 15, 2016 or your financial assistance might end.

Because there was no timely response to this notice, your child was terminated from their Child Health Plus plan effective February 29, 2016.

You testified that you do not recall receiving a notice informing you that your child’s application needed to be updated.

The record indicates that the relevant notices were issued to the address you have listed on your NYSOH account, and that there is no indication that any of the notices were returned to the NYSOH as undeliverable.

On February 23, 2016 you updated the information in your NYSOH account and re-enrolled your child in a Child Health Plus plan.

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 sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

On February 23, 2016 you selected your child's Child Health Plus plan, so it must take effect on the second month after February 2016; that is, on April 1, 2016.

Therefore, the February 24, 2016 enrollment notice stating that your child's Child Health Plus coverage would take effect on April 1, 2016 is correct and must be AFFIRMED.

Decision

The February 24, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of your child's health coverage through Fidelis Care is April 1, 2016.

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 after the date 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 date 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 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).

If You Have Questions about this Decision (Customer Service Resources):

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Summary

The February 24, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your child's eligibility.

The effective date of your child's health coverage through Fidelis Care is April 1, 2016.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

