



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

Notice of Decision

Decision Date: August 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007394

[REDACTED]

Dear [REDACTED],

On July 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2016 eligibility redetermination and enrollment confirmation notices regarding your children.

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

Decision Date: August 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007394

[REDACTED]

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 children's enrollment in their Child Health Plus plan was effective April 1, 2016?

Procedural History

On December 21, 2015, NY State of Health (NYSOH) issued a renewal notice that stated your children's eligibility for financial assistance in the upcoming policy year could not be determined and you needed to update your NYSOH account by January 15, 2016 so that they did not lose coverage.

On January 9, 2016, NYSOH issued a letter stating that you needed to submit additional income documentation by January 24, 2016 to confirm that the information you provided in your application is accurate.

Also on January 9, 2016, NYSOH issued a disenrollment notice that stated your children's Child Health Plus coverage would end January 31, 2016.

On February 17, 2016, NYSOH issued an eligibility redetermination notice, based on your February 16, 2016 application, that stated your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective April 1, 2016.

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Also on February 17, 2016, NYSOH issued an enrollment notice, based on your plan selection on February 16, 2016, stating that your children were enrolled in a Child Health Plus plan, and that their enrollment in the plan would start April 1, 2015.

On February 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin February 1, 2016.

On July 28, 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 children's eligibility and enrollment start dates in their Child Health Plus plan.
- 2) You submitted an application to NYSOH for financial assistance for your children on January 8, 2016.
- 3) According to your NYSOH account, on January 8, 2016, you uploaded your and your spouse's last pay checks for pay periods ending December 31, 2015. Your December 31, 2015 earnings statement showed you earned \$4,213.08 in gross income in 2015. Your spouse's earnings statement showed he earned \$48,000.00 in gross income in 2015.
- 4) According to your NYSOH application, on January 8, 2016, your income is listed on your NYSOH application as \$200.00 for January 2016 and \$240.00 projected annually. Your spouse's income is listed as \$47,100.00.
- 5) You testified that you explained to a NYSOH representative that the amounts listed for you were a range of what you projected you would earn in only January 2016 as a [REDACTED].
- 6) You testified it is nearly impossible to project your earnings for a given year because you are a [REDACTED] and only get called to work in the [REDACTED], which cannot be predicted.
- 7) You testified and your NYSOH account reflects that, on February 16, 2016, you changed your projected 2016 income to \$1,028.00 and left your spouse's gross income at \$47,100.00. You testified that the income listed

for you more accurately reflects your projected income for 2016 at that time and your spouse's gross earnings projected should be \$48,000.00.

- 8) According to the Appeal Summary, dated June 28, 2016, and the entry of February 24, 2016 contained therein, on January 8, 2016, your children were pending Medicaid status and income documentation was requested before January 24, 2016. The entry further states that, "[i]ncome documentation was provided on 1/8/16, however it was not reviewed." Your NYSOH account confirms that no action was taken to verify or invalidate these documents.
- 9) You testified, and the record reflects, that you enrolled your children into a Child Health Plus plan on February 16, 2016, as stated in the February 17, 2016 enrollment notice, because your backdate of coverage request had been denied.
- 10) You testified that you need your children's Child Health Plus plan to begin on February 1, 2016, not 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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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

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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).

Legal Analysis

The issue is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was effective April 1, 2016.

You testified that you contacted NYSOH on February 16, 2016 and enrolled your children into a Child Health Plus plan after your request to have their coverage backdated was denied.

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.

While the February 17, 2016 enrollment confirmation notice correctly states that your children's enrollment in their Child Health Plus plan was effective April 1, 2016 strictly adhering to the start date rules, the analysis cannot end here because of extenuating circumstances in your case.

The record reflects that your children's Child Health Plus coverage was due to end on January 31, 2016 and, according to the December 21, 2015 renewal notice, you needed to update your NYSOH account by January 15, 2016. The record further reflects that, on January 8, 2016, you updated your NYSOH account and also provided your and your spouse's most recent earnings statements, which happened to coincide with the last day in 2015; that is, December 31, 2015. Therefore, as of January 8, 2016, NYSOH had available to it verifiable income documents for both your and your spouse's year-to-date 2015 gross earnings that could have been used to determine your children's eligibility for financial assistance before January 15, 2016, so that their eligibility could be redetermined for a February 1, 2016 effective date. The record further reflects that, but for NYSOH not timely verifying these income documents, your children were not re-enrolled and had a gap in coverage for the months of February 2016 and March 2016. Therefore, it is reasonable to conclude that NYSOH's inaction in verifying your income documents constitutes error, which resulted in their gap in health insurance coverage for two months, and the remedy is to provide your children with coverage as of February 1, 2016.

Therefore, in the interest of justice and administrative expediency, the February 17, 2016 eligibility redetermination notice is MODIFIED to state that your children

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were eligible for Child Health Plus, effective February 1, 2016; and the February 17, 2016 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their Child Health Plus plan as of February 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your children in their Child Health Plus plan as of February 1, 2016, and to notify you accordingly.

Decision

The February 17, 2016 eligibility redetermination notice is MODIFIED to state that your children were eligible for Child Health Plus, effective February 1, 2016.

The February 17, 2016 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their Child Health Plus plan as of February 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your children in their Child Health Plus plan as of February 1, 2016, and to notify you accordingly.

Effective Date of this Decision: August 1, 2016

How this Decision Affects Your Eligibility

By this decision, your children's eligibility for Child Health Plus and enrollment in Child Health Plus plan are being made effective as of February 1, 2016.

Your case is being sent back to NYSOH to re-enroll your children into their Child Health Plus plan as of February 1, 2016, and to notify you accordingly.

You will be responsible for the monthly premiums for February 2016 and March 2016, if any are due and owing.

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.

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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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The February 17, 2016 eligibility redetermination notice is MODIFIED to state that your children were eligible for Child Health Plus, effective February 1, 2016.

The February 17, 2016 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their Child Health Plus plan as of February 1, 2016.

Your case is RETURNED to NYSOH to re-enroll your children in their Child Health Plus plan as of February 1, 2016, and to notify you accordingly.

By this decision, your children's eligibility for Child Health Plus and enrollment in Child Health Plus plan are being made effective as of February 1, 2016.

Your case is being sent back to NYSOH to re-enroll your children into their Child Health Plus plan as of February 1, 2016, and to notify you accordingly.

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You will be responsible for the monthly premiums for February 2016 and March 2016, if any are due and owing.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

