



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

Notice of Decision

Decision Date: August 09, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007397

[REDACTED]

Dear [REDACTED],

On July 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 25, 2016 eligibility determination and 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 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: AP000000007397

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Issue

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

Did NY State of Health (NYSOH) properly determine that your children's eligibility for and enrollment in their Child Health Plus plan was effective April 1, 2016?

Procedural History

On February 13, 2015, NYSOH issued a notice of eligibility determination, based on your February 12, 2015 application, stating that your four children were eligible for Child Health Plus (CHP), effective March 1, 2015. Your children were subsequently enrolled in a CHP plan.

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

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

On February 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a qualified health plan at full cost. This was

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because you had not responded to the renewal notice and had not completed your children's renewal within the required time frame. Your children's eligibility ended February 29, 2016.

On February 19, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan would end effective February 29, 2016.

On February 24, 2016, NYSOH received your children's updated application for health insurance. That same day, NYSOH prepared a preliminary eligibility determination stating that your children were eligible to enroll in CHP coverage.

Also on February 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP coverage, insofar as it did not begin on March 1, 2016.

On February 25, 2016, NYSOH issued a notice of eligibility determination, based on your February 24, 2016 application, stating that your children were eligible to enroll in CHP with a \$30.00 monthly premium each, effective April 1, 2016.

Also on February 25, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 24, 2016, stating that your children were enrolled in a CHP plan and that coverage would start on April 1, 2016, with premiums capped at \$90.00 per month for all four children.

On July 19, 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, and the record reflects, that you currently receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive the January 14, 2016 renewal notice. You further testified that, when you updated your account with an application counselor in February, you were informed that you were enrolled to receive electronic alerts regarding notices in your NYSOH account.
- 3) You testified that you are sure that you never asked to be enrolled to receive electronic alerts because you are not very good with email.

- 4) There is no evidence in the record that you were sent a notice confirming your enrollment in electronic notifications.
- 5) You testified that the NYSOH representative you spoke with in February when you updated your account told you that they would change your preferences to regular mail.
- 6) After the hearing, the Hearing Officer listened to the recordings of your phone calls with NYSOH from the month of February 2016 in their entirety. The following findings of fact are based on these recordings:
 - a. During your phone call on February 24, 2016 with a representative from NYSOH, the representative read an email address to you that you stated was no longer correct. You updated your email address with this representative. The representative did not state that any alerts had been sent to that email address.
 - b. During this same call, you informed the representative that you had updated your application for health insurance with someone in an office, and that she had changed your account so that you would no longer get email.
 - c. During your phone call on February 24, 2016 with the Accounts Review Unit, the representative informed you that it was possible that an email went to your old email address regarding the renewal notice, but also informed you that the January 14, 2016 renewal notice was mailed to you by regular mail.
- 7) You testified that you first found out that your children's coverage had ended when you called your children's health plan because you had not received a bill for their plan premium.
- 8) You testified that, when you spoke with your children's health plan, they informed you that you needed to recertify your coverage with NYSOH.
- 9) You testified that you had previously called your children's insurance plan in February 2016, before their coverage expired, because your son was hospitalized that month.
- 10) You testified that your children's health plan told you that their insurance coverage was active until March 15, 2016, and that you just needed to recertify by March 15, 2016 to make sure that your children's coverage continued.

- 11) You testified that you are filing this appeal only on behalf of your son [REDACTED], as you have outstanding medical bills for follow-up appointments he had in March 2016 after his February 2016 hospitalization.
- 12) You testified that you are seeking that your son be found eligible for CHP and enrolled in his CHP plan as of March 1, 2016.

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 § 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

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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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in his CHP plan was effective April 1, 2016.

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

Generally, NYSOH must redetermine a qualified child'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 to continue their financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016, or their financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his CHP Plus plan, effective February 29, 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 via regular mail. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

You told a NYSOH representative in a phone call on February 24, 2016 that the person whom you went to for help with updating your account told you that you were enrolled to receive emails, and that she would change your account so that you would receive regular mail. However, there is no evidence in the record that you were ever enrolled to receive emails, nor that your preferences were changed to regular mail at any point.

When you spoke with a representative from the Account Review Unit later that same day, the representative confirmed that the January 14, 2016 renewal notice had been sent to you by regular mail. Therefore, even if you were sent an electronic renewal to your old email address, you were also sent a notice by regular mail, and that notice was not returned to NYSOH as undeliverable, so any electronic notice would be irrelevant for this appeal.

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

You first renewed your child's eligibility for financial assistance through NYSOH for 2016 on February 24, 2016, and enrolled your child into a CHP plan 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 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 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.

Therefore, NYSOH's February 25, 2016 eligibility determination and enrollment confirmation notices are AFFIRMED because they properly began your child's eligibility for and enrollment in a CHP plan on April 1, 2016.

Decision

The February 25, 2016 eligibility determination notice is AFFIRMED.

The February 25, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: August 09, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan 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 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:
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- By fax: 1-855-900-5557

Summary

The February 25, 2016 eligibility determination notice is AFFIRMED.

The February 25, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan is April 1, 2016

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A Copy of this Decision Has Been Provided To:

