



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

Notice of Decision

Decision Date: August 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007407

[REDACTED]

Dear [REDACTED],

On August 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 2016 eligibility determination and enrollment 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 Date: August 11, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007407

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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 daughter's eligibility for and enrollment in her Child Health Plus plan was effective April 1, 2016?

Procedural History

On December 21, 2014, NYSOH issued a notice of enrollment confirming that your daughter's coverage through Child Health Plus (CHP) at a \$9.00 per month premium was effective February 1, 2015.

On December 21, 2015, NYSOH issued a notice that it was time to renew your daughter's health insurance for the upcoming year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your daughter would qualify for financial help paying for her health coverage, and that you needed to update your account by January 15, 2016 or your daughter might lose the financial assistance she was currently receiving.

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

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

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had not responded to the renewal notice and had not completed your daughter's renewal within the required time frame. Your daughter's eligibility ended January 31, 2016.

Also on January 17, 2016, NYSOH issued a disenrollment notice confirming that your daughter's CHP coverage would end effective January 31, 2016.

On February 25, 2016, NYSOH received your daughter's updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your daughter was eligible for coverage through CHP at a monthly premium of \$9.00, effective April 1, 2016.

On February 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your daughter CHP plan insofar as it did not begin February 1, 2016.

On February 26, 2016, NYSOH issued a notice of eligibility determination, based on your February 25, 2016 application, stating that your daughter was eligible to enroll in CHP with a \$9.00 monthly premium, effective April 1, 2016.

Also on February 26, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 25, 2016, stating that your daughter was enrolled in a CHP plan and that coverage would start on April 1, 2016.

On August 8, 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 initially requested to receive all of your notices from NYSOH by electronic mail. You further testified that around the time you requested to appeal your determination, on or about February 25, 2016, you switched this election to seeking to receive all documentation through regular U.S. mail since you had encountered trouble with the electronic mailings.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your daughter's coverage.

- 3) You testified that you did not know that you needed to update your account until you incurred out-of-pocket medical expenses associated with your daughter's medical care during February 2016.
- 4) The record reflects that on February 25, 2016, NYSOH received your daughter's updated application for health insurance.
- 5) You testified that you are seeking that your daughter be enrolled in her CHP plan as of February 1, 2016, rather 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

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 CHP 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

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

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child’s enrollment in her CHP plan was effective April 1, 2016.

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

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is 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 December 21, 2015 renewal notice stated that there was not enough information to determine whether your daughter was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by January 15, 2016, or any such financial assistance might end.

Because there was no timely response to this notice, your daughter was terminated from her CHP plan, effective January 31, 2016.

However, you testified and the record reflects that prior to you having switched your election to receive notices from NYSOH via regular U.S. mail on or about February 25, 2016, you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in

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your NYSOH account on behalf of your daughter. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your daughter's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your daughter's behalf.

You first renewed your daughter's eligibility for financial assistance through NYSOH for the new coverage year on February 25, 2016, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the February 26, 2016 notice of eligibility redetermination is MODIFIED to state that, effective February 1, 2016, your child is eligible to enroll in CHP with a \$9.00 premium per month, and the February 26, 2016 notice of enrollment confirmation is MODIFIED to state that your daughter's enrollment in her CHP plan is effective February 1, 2016.

Decision

The February 26, 2016 eligibility determination notice is MODIFIED to state that, effective February 1, 2016, your daughter is eligible to enroll in CHP with a \$9.00 premium per month.

The February 26, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her CHP plan is effective February 1, 2016.

Effective Date of this Decision: August 11, 2016

How this Decision Affects Your Eligibility

Your daughter's eligibility for and enrollment in her CHP plan should have been effective as of February 1, 2016.

Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan as of February 1, 2016.

If You Disagree with this Decision (Appeal Rights)

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 26, 2016 eligibility determination notice is MODIFIED to state that, effective February 1, 2016, your daughter is eligible to enroll in CHP with a \$9.00 premium per month.

The February 26, 2016 notice of enrollment is MODIFIED to state that your daughter's enrollment in her CHP plan is effective February 1, 2016.

Your daughter's eligibility for and enrollment in her CHP plan should have been effective as of February 1, 2016.

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Your case is being sent back to NYSOH to reinstate your daughter into her CHP plan as of February 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

