



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: AP000000007418

[REDACTED]

Dear [REDACTED],

On August 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 25, 2015 cancellation notice, October 25, 2015 enrollment confirmation notice, and February 23, 2016 eligibility redetermination 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 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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Decision

Decision Date: September 15, 2016

NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that you were no longer eligible to remain enrolled in your qualified health plan effective January 1, 2015?

Did NY State of Health properly determine that your children's coverage in their Child Health Plus plan was effective December 1, 2015?

Did NY State of Health properly determine your child was not eligible for help paying medical bills for the three month period prior to February 22, 2016?

Procedural History

On December 11, 2014, the NY State of Health (NYSOH) received your household's application for health insurance.

On December 13, 2014, the NYSOH issued an enrollment confirmation notice confirming your enrollment in a Silver level qualified health plan with a premium responsibility of \$106.45 per month starting January 1, 2015.

On April 11, 2015, an eligibility determination notice was issued finding your two children eligible to enroll through Child Health Plus with a premium responsibility of \$9.00 per month each starting May 1, 2015.

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Your two children were subsequently enrolled in a Child Health Plus plan effective May 1, 2015.

On June 25, 2015, a cancellation notice was issued terminating your Silver level qualified health plan effective January 1, 2015. This was because a premium payment was not received by your health plan.

On September 9, 2015, NYSOH received your updated application for financial assistance.

On September 10, 2015, an eligibility determination notice was issued finding you eligible to receive advance premium tax credits up to \$360.00 per month as well as cost sharing reductions effective October 1, 2015. The determination was based on your attested household income of \$29,705.00.

On September 10, 2015, a notice was issued asking for more information to make a determination for your children's eligibility. The notice explained that the income documentation you provided does not match what NYSOH obtained from state and federal data sources. You were asked to provide income documentation for your household by September 25, 2015.

Additionally, on September 10, 2015, a disenrollment notice was issued terminating your two children's enrollment in their Child Health Plus plan effective September 30, 2015.

On October 8, 2015, NYSOH received your updated application for financial assistance.

On October 9, 2015, an eligibility determination was issued finding your two children eligible to enroll in a Child Health Plus plan for a cost of \$9.00 per month effective November 1, 2015.

On October 25, 2015, an enrollment confirmation notice was issued confirming your children's enrollment in a Child Health Plus plan effective December 1, 2015.

On December 16, 2015, NYSOH issued a disenrollment notice stating that your children's enrollment in their Child Health Plus plan would end December 31, 2015.

On January 4, 2016, NYSOH received your updated application for financial assistance.

On January 5, 2016, NYSOH issued a notice stating more information was required to make a determination on your application for yourself and your two

children. You were asked to provide income documentation to confirm your income before January 20, 2016.

On February 23, 2016, an eligibility determination notice was issued finding you eligible to enroll in the Essential Plan effective April 1, 2016, and finding your two children eligible to enroll in Child Health Plus effective April 1, 2016.

On February 23, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan starting April 1, 2016, and your two children had been enrolled in a Child Health Plus plan starting April 1, 2016.

Additionally, on February 23, 2016, NYSOH issued an eligibility redetermination notice stating your request for paying for medical bills for the three month period prior to February 22, 2016 was received. However, your request was denied for the period of November 1, 2015 through November 30, 2015. The notice stated this was because the program he was eligible for cannot pay for any care he received in the past.

On February 25, 2016, you spoke to the NYSOH's Account Review Unit and appealed the February 23, 2016 notice, as well as the gap in coverage your child experienced due to being disenrolled September 30, 2015, and to be reinstated in your Silver level qualified health plan beginning July 2015.

On August 16, 2016, you had a telephone hearing with a Hearing Officer from the NYSOH Appeals Unit. During your telephone hearing you testified you are now only seeking to appeal your reinstatement into your qualified health plan beginning July 1, 2015, and your son's reinstatement into his Child Health Plus plan for the month of November, 2015, in order to cover medical bills incurred during those months. The record was developed during the hearing and kept open 15 days for you to provide additional income documentation for you and your child. These documents were received by the NYSOH Appeal's Unit via upload to your account on August 31, 2016, and incorporated into the record as (Appellant's Exhibit 1).

Findings of Fact

A review of the record support the following findings of fact:

- 1) You testified, and the record reflects, that you are appealing you and your 18 year old child's eligibility.
- 2) You testified you are seeking to be reinstated in your qualified health plan starting July 1, 2015. You are also seeking to have your child found eligible for health insurance for the month of November, 2015.

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- 3) You testified you did not know why your child was disenrolled from his Child Health Plus plan effective September 30, 2015.
- 4) The record reflects that your children were enrolled in a Child Health Plus plan on April 10, 2015, leading to a May 1, 2015 start date.
- 5) The record shows your children were both disenrolled from their Child Health Plus plan effective September 30, 2015. The record shows income documentation was being requested to confirm their eligibility.
- 6) The record shows your child was re-enrolled into a Child Health Plus plan effective April 1, 2016.
- 7) The record indicates that you submitted documentation of your household's income on September 21, 2015 and October 19, 2015.
- 8) You testified that you are seeking you and your child to be found eligible for reinstatement in your health insurance plans as you experienced medical costs in the month of August, 2015 which were not covered, and your child experienced medical costs in the month of November, 2015, which were not covered.
- 9) Your September 9, 2015, application states your household income was \$29,705.00.
- 10) The record reflects, and your testimony supports you still reside in Tioga County, NY.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your first application for your two youngest children, that was the 2015 FPL, which was \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

“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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014, <https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

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 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 [PHL] § 2510(6)).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child may be enrolled presumptively for two months while the missing documentation is collected (see e.g. 42 CFR § 457.355, SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014,

<https://www.medicaid.gov/chip/state-program-information/chip-state-program-information.html>).

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Retro Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application for an individual found eligible for Medicaid, if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR §435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

Legal Analysis

The first issue is whether NYSOH properly determined that you were no longer eligible to remain enrolled in your qualified health plan effective January 1, 2015.

On December 13, 2014, the NYSOH issued an enrollment confirmation notice confirming your enrollment in a Silver level qualified health plan with a premium responsibility of \$106.45 per month starting January 1, 2015.

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).

On June 25, 2015, a cancellation notice was issued terminating your Silver level qualified health plan effective January 1, 2015. This was because a premium payment was not received by your health plan.

The NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not you were properly terminated from your health plan for non-payment of premiums. Therefore, your appeal of the June 25, 2015 cancellation notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your children's coverage through their Child Health Plus (CHP) plan was effective December 1, 2015.

Your children were originally found eligible to enroll in a CHP plan with NYSOH on April 11, 2015. An eligibility determination notice was issued finding your two children eligible to enroll through CHP with a premium responsibility of \$9.00 per month each starting May 1, 2015. They were subsequently enrolled in a CHP plan effective May 1, 2015.

In New York State the period of eligibility and enrollment with CHP plans 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 child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid. This period is known as "continuous coverage."

Since the period of your children's CHP eligibility began on May 1, 2015, it would continue twelve months until April 30, 2016, unless an event occurs to disqualify them from CHP eligibility. One of the events that would disqualify your children from eligibility for CHP, would be if they became eligible for coverage under Medicaid.

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Your updated application for financial assistance which was received by NYSOH on September 9, 2015 stated you had a household income of \$29,705.00.

Your application states you reside with your two children, and will be claiming both children as dependent's on your 2015 tax return with a tax filing status of head of household. Therefore, your children reside in a three-person household for NYSOH purposes. A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the Federal Poverty Level (FPL) for the applicable family size.

On the date of your September 9, 2015, application, the relevant FPL was \$20,090.00 for a three-person household. Since the submitted household income on that application of \$29,705.00 is 150.1% of the 2015 FPL, your two children would have an income below 154% of the FPL, making your children presumptively eligible for Medicaid. As a result of this new conditional eligibility on September 10, 2015, a disenrollment notice was issued terminating your two children's enrollment in their Child Health Plus plan effective September 30, 2015, as they were newly eligible for Medicaid.

However, instead of issuing an eligibility determination for your two children based on your application, NYSOH issued the September 10, 2015, notice stating that their eligibility could not be determined and that more information regarding the household's income was needed. The record indicates that you submitted documentation of your household's income on September 21, 2015 and October 19, 2015.

As a result of needing to submit income documentation, your two children were not determined eligible for Child Health Plus until October 8, 2015, as a result they were not enrolled in a Child Health Plus plan until October 24, 2015, leaving them with an effective date of coverage starting December 1, 2015.

The date on which a Child Health Plus plan can take effect generally 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.

However, the State of New York has elected to find a child presumptively eligible for Child Health Plus for two months from the date of their NYSOH application if the child appears eligible for coverage pending submission of documentation. Therefore, your two children should have been found presumptively eligible for Child Health Plus as of the September 9, 2015, application and a plan could have been selected for them that day. If a plan had been selected on September 9, 2015, that plan would have taken effect on the first day of the following month, October 1, 2015.

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).

Therefore, the October 25, 2015 enrollment confirmation notice is MODIFIED to reflect a start date of your children's CHP plan to be October 1, 2015 for a premium responsibility of \$18.00.

The third issue is did NYSOH properly determine your child was not eligible for help paying medical bills for the three month period prior to February 22, 2016, because the program he was eligible for cannot pay for any care he received in the past.

On February 23, 2016, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan starting April 1, 2016, and your two children had been enrolled in a Child Health Plus plan starting April 1, 2016.

NYSOH then issued an eligibility redetermination notice on February 23, 2016, stating your request for paying for medical bills for the three month period prior to February 22, 2016 was received. However, your request was denied for the period of November 1, 2015 through November 30, 2015. The notice stated this was because the program he was eligible for cannot pay for any care he received in the past.

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application for an individual found eligible for Medicaid, if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied.

Since your child was eligible for Child Health Plus on the date of your request and not Medicaid, he cannot seek retroactive coverage for the three month period before February 22, 2016. This is because that program cannot pay for any care he received in the past. Therefore the February 23, 2016, eligibility redetermination notice finding your child ineligible for retroactive coverage for the period of November 1, 2015 through November 30, 2015, was correct and is AFFIRMED.

Your case is RETURNED to the NYSOH to ensure that your children are reinstated into their Child Health Plus coverage effective October 1, 2015 through December 31, 2015. You are responsible for any premium payments for those months.

Decision

Your appeal on the issue of disenrollment from your silver level qualified health plan effective January 1, 2015 is DISMISSED.

The October 25, 2015, enrollment confirmation notice is MODIFIED.

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).

The February 23, 2016, eligibility redetermination notice finding your child ineligible for retroactive coverage for the period of November 1, 2015 through November 30, 2015, was correct and is AFFIRMED.

Your case is RETURNED to the NYSOH to ensure that your children are reinstated into their Child Health Plus coverage effective October 1, 2015 through December 31, 2015. You are responsible for any premium payments for those months.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

This decision does not change your children's eligibility.

Your children are to be enrolled in their Child Health Plus plan effective October 1, 2015 through December 31, 2015.

You are responsible for paying the insurance carrier any Child Health Plus premiums that may be owed for the months they are to be reinstated in their plan for.

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)).

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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

Your appeal on the issue of disenrollment from your silver level qualified health plan effective January 1, 2015 is **DISMISSED**.

The October 25, 2015, enrollment confirmation notice is **MODIFIED**.

The February 23, 2016, eligibility redetermination notice finding your child ineligible for retroactive coverage for the period of November 1, 2015 through November 30, 2015, was correct and is **AFFIRMED**.

Your case is **RETURNED** to the NYSOH to ensure that your children are reinstated into their Child Health Plus coverage effective October 1, 2015. You are responsible for any premium payments for those months.

This decision does not change your eligibility.

Your children are to be enrolled in their Child Health Plus plan effective October 1, 2015 through December 31, 2015.

You are responsible for paying the insurance carrier any Child Health Plus premiums that may be owed for the months they are to be reinstated in their plan for.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

