



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: AP000000007525



Dear [REDACTED],

On August 25, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2016 eligibility determination notice and March 1, 2016 enrollment confirmation 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 NY State of Health Account ID at the top of this notice.

Legal Authority

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).

We are sending you this notice in accordance with 45 Code of Federal Regulations § 155.545.

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Decision

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NY State of Health Account ID: [REDACTED]
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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 properly determine that your child's eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2016?

Procedural History

On February 1, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your January 31, 2015, application, stating that your child was eligible for Child Health Plus, effective March 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan.

On January 12, 2016, NYSOH issued a notice stating that it was time to renew your child'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 child would qualify for financial help paying for his health coverage, and that you needed to update your account by February 15, 2016, or your child might lose the financial assistance he was 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 child was 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 child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal

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within the required time frame. Your child's eligibility ended effective February 29, 2016.

On February 29, 2016, NYSOH received your child's updated application for financial assistance with his health insurance.

That same day, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your child from his Child Health Plus plan as of February 29, 2016.

On March 1, 2016, NYSOH issued a notice of eligibility determination, based on your February 29, 2016, application, stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium cost, effective April 1, 2016.

Also on March 1, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 29, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on April 1, 2016.

On August 25, 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 receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you do remember receiving electronic alerts regarding your NYSOH account telling you that you needed to update your application in order to renew your child's coverage.
- 3) You testified you had accessed your NYSOH account before the deadline provided of February 15, 2016.
- 4) You testified that when you accessed your NYSOH account to update the information, you were provided with a screen that stated there was no further action required on your part to renew your child's coverage.
- 5) NYSOH records show, and your testimony supports, you uploaded a copy of a screen shot taken of your account showing that your child was renewed for his coverage with an effective date of February 29, 2016, and that a plan did not need to be selected at that time (Appellant's Exhibit 1) See Document [REDACTED]

- 6) You testified that you believe you had paid your premium responsibility for February 2016.
- 7) You testified that you have incurred medical costs during the month of February for an emergency room visit in the amount of \$500.00.
- 8) The record reflects that on February 29, 2016, NYSOH received your child's updated application for financial assistance with his health insurance.
- 9) You testified that you are seeking that your child be enrolled in his Child Health Plus 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

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

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents needed to verify eligibility. Children 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).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH’s request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

Legal Analysis

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

Your child was originally found eligible for Child Health Plus effective March 1, 2015, and enrolled in to a plan starting March 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

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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 January 12, 2016, renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016, or any such financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his Child Health Plus plan, effective February 29, 2016. You testified that you believe you had paid your premium responsibility for your child's enrollment in the month of February 2016. You have incurred medical costs for your child during the month of February 2016, when he was without coverage for an emergency room visit in the amount of \$500.00.

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.

However, under the presumptive eligibility rule, your child should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning March 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation.

Since the end date of the previous 12 month policy period of your child's eligibility for and enrollment in Child Health Plus February 29, 2016, your child should have been determined presumptively eligible from March 1, 2016, through April 30, 2016, so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

Therefore, the February 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification which was done as of February 29, 2016.

The March 1, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of March, 2016.

Decision

The February 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of his recertification which was done as of February 29, 2016.

The March 1, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of March, 2016.

Effective Date of this Decision: September 15, 2016

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in his Child Health Plus plan is effective March 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)).

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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
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- By fax: 1-855-900-5557

Summary

The February 17, 2016, eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in Child Health Plus for two months pending your completion of his recertification which was done as of February 29, 2016.

The March 1, 2016, enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the month of March, 2016.

Your child's eligibility for and enrollment in his Child Health Plus plan is effective March 1, 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

