



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007559

[REDACTED]

Dear [REDACTED],

On August 25, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 2, 2016 eligibility determination.

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 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007559

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

Procedural History

On December 22, 2015, your NY State of Health (NYSOH) account was updated to change to your address.

On March 1, 2016, your NYSOH account was updated.

That same day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible for Child Health Plus (CHP) with a \$15.00 monthly premium.

Also on March 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP eligibility, insofar as it did not begin December 1, 2015.

On March 2, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a \$15.00 monthly premium, effective April 1, 2016.

Also on March 2, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 1, 2016, stating that your child was enrolled in a CHP plan, and that coverage in the plan would be effective 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 that you are appealing only your child's eligibility.
- 2) You testified that your child previously had insurance coverage under her mother's insurance, and that you believe this coverage ended in October or November of 2015.
- 3) You testified that you first contacted NYSOH to apply for health insurance for your daughter in December 2015, and the record reflects that you updated your NYSOH account and changed your address on December 22, 2015.
- 4) You testified that, when you were attempting to submit an application for your child in December 2015, you realized you had misplaced her Social Security number, so you could not complete the application.
- 5) You testified that you called NYSOH back to complete your child's application after obtaining her Social Security number. You testified that you made this call four or five days after your first call to NYSOH, and that you recall it being the end of December 2015.
- 6) You testified that you completed your child's application the same day that you called to provide her Social Security number, but were advised that there was a computer problem, and the NYSOH representative you were speaking with was unable to submit the application.
- 7) You testified that you were advised by the NYSOH representative that they would document the computer problem in your file, and that you should call back in a few days to give them time to resolve the technical issue.
- 8) You testified that you called NYSOH back approximately a week later, and the issue was still not resolved.

- 9) You testified that you continued to call NYSOH every week or two to try to follow up on the application.
- 10) You testified that you repeatedly asked the NYSOH representatives you spoke with to make sure that your child's coverage would be backdated once the computer issue was resolved, and that you were assured her coverage would be backdated.
- 11) After the hearing, the Hearing Office requested the recordings of any phone calls that you had with NYSOH from either of the following numbers: [REDACTED] and [REDACTED]. Two recordings were found: one from December 22, 2015, and one from January 28, 2016.
- 12) The Hearing Officer listened to the recordings of both phone calls in their entirety. The following findings of fact are based on the recordings:
 - a. You first spoke with a NYSOH representative on December 22, 2015 to apply for health insurance for your child, but were unable to complete the application because you did not have her Social Security number available.
 - b. There is no record of any phone calls between you and NYSOH between December 22, 2015 and January 28, 2016.
 - c. You called on January 28, 2016 to complete your child's application for health insurance.
 - d. On January 28, 2016, the NYSOH representative you spoke with informed you that, if your child was eligible for any coverage other than Medicaid, her coverage would not begin until March 1, 2016 because January 15, 2016 would have been the deadline for February 1, 2016 coverage.
 - e. The NYSOH representative you spoke with on January 28, 2016 was unable to complete your application on that day due to an error message that kept appearing on your account.
 - f. The NYSOH representative that you spoke with on January 28, 2016 informed you that he would put a note in your account so that, if your application was not completed by February 15, 2016 (the deadline for March 1, 2016 coverage), your child's coverage might still be backdated to March 1, 2016.
- 13) The record reflects that NYSOH backdated your child's coverage to March 1, 2016.

- 14) The record reflects that your application was submitted on March 1, 2016, and that you selected a CHP plan for your child on that same day, with a plan start date of April 1, 2016.
- 15) You testified that you need your child's CHP eligibility and plan to begin on December 1, 2015 because you have medical bills from the months when she did not have coverage.

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 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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 e.g. 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, her CHP coverage was effective April 1, 2016.

The record and your testimony confirm that you first contacted NYSOH to apply for insurance on your child's behalf on December 22, 2015; however, you were

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unable to complete the application on that date because you did not have your child's Social Security number. The record further reflects that your daughter's application was ultimately processed on March 1, 2016, and you selected a plan for her on that same day. NYSOH issued notices on March 2, 2016 stating that both your daughter's eligibility for, and enrollment in, her CHP plan coverage was effective April 1, 2016.

Ordinarily, a child's eligibility for CHP 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. A child's enrollment into a CHP plan follows the same guidelines. Therefore, the April 1, 2016 start date for your child's eligibility for, and enrollment in, her CHP plan coverage would ordinarily be correct, based on the March 1, 2016 application and plan selection date.

However, information in the record, along with your testimony, indicates that your child's application would have been processed sooner if NYSOH had not been experiencing computer problems on the day you called to complete your application. Though you testified that you thought you were informed of this computer problem in a phone call at the end of December 2015, information in the record indicates that this phone call did not occur until January 28, 2016. In that phone call, you were informed by the NYSOH representative that a note would be placed in your account to indicate that you attempted to complete your application on January 28, 2016. Additionally, you were informed that the earliest your child's coverage would begin, unless she was found eligible for Medicaid, was March 1, 2016.

Since your application would have been completed on January 28, 2016, your daughter's eligibility for CHP, and her enrollment in her plan, should have started on March 1, 2016. It appears that NYSOH acknowledged this fact, as your child's coverage was backdated to March 1, 2016 by someone at NYSOH on March 10, 2016.

To bring the notices at issue in line with the actions already taken by NYSOH, the March 2, 2016 eligibility determination notice is MODIFIED to state that your child was eligible to enroll in CHP coverage with a \$15.00 per month premium, effective March 1, 2016. Likewise, the March 2, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan started on March 1, 2016.

Decision

The March 2, 2016 eligibility determination notice is MODIFIED to state that your child was eligible for CHP as of March 1, 2016.

The March 2, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan began on March 1, 2016.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility, as her coverage was already backdated to March 1, 2016.

Your daughter was eligible for CHP coverage effective March 1, 2016.

The start date of your child's enrollment in her CHP plan is 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)).

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
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- By fax: 1-855-900-5557

Summary

The March 2, 2016 eligibility determination notice is MODIFIED to state that your child was eligible for CHP as of March 1, 2016.

The March 2, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan began on March 1, 2016.

This decision does not change your child's eligibility, as her coverage was already backdated to March 1, 2016.

Your daughter was eligible for CHP coverage effective March 1, 2016.

The start date of your child's enrollment in her CHP plan is March 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:

