



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

Notice of Decision

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007597

[REDACTED]

Dear [REDACTED]

On August 10, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 3, 2016 eligibility redetermination and enrollment confirmation notices as these notices relate to your children.

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

Decision Date: August 16, 2016

NY State of Health Account ID: [REDACTED]
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[REDACTED]

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 children's eligibility for and enrollment in their Child Health Plus plan was effective April 1, 2016 and not January 1, 2016?

Procedural History

On October 23, 2015, NY State of Health (NYSOH) issued a renewal notice that in part stated a determination about your children's eligibility for financial assistance in 2016 could not be made and you needed to update the information on your NYSOH account by December 15, 2015 or the current financial assistance they were receiving might end.

On November 16, 2015, with the assistance of your broker, you updated the information in your NYSOH account.

On November 20, 2015, NYSOH issued a letter that stated you needed to submit income documentation for your household by December 5, 2015 to confirm that the information you provided on your application was accurate.

On December 15, 2015, you faxed in a copy of your and your spouse's 2014 individual income tax return (Form 1040) and copies of 4 consecutive weeks of your earnings statements.

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According to your NYSOH account, your 2014 Form 1040 was deemed invalid on January 11, 2016, because it was a “Client Copy” and not signed by you and your spouse.

On January 12, 2016, NYSOH sent another letter stating that your spouse needed to provide proof of income. No timeframe was stated in that letter.

On January 20, 2016, NYSOH issued another letter stating that the income information you provided in your updated application on January 19, 2016, did not match the information obtained from federal and state data sources and that, in order for your children’s eligibility to be redetermined you needed to submit income documentation for your household by February 4, 2016 to confirm your household’s income.

On March 2, 2016, you spoke with a representative of NYSOH’s Account Review Unit and appealed the preliminary eligibility redetermination made that day insofar as your children had an April 1, 2016 start date for Child Health Plus, and not January 1, 2016.

On March 3, 2016, NYSOH issued an eligibility redetermination notice that in part stated your children were each eligible to enroll in Child Health Plus for a cost of \$9.00 per month, effective April 1, 2016, based on your projected 2016 annual household income of \$47,999.96.

Also on March 3, 2016, NYSOH issued an enrollment notice confirming in part that your children were enrolled in a Child Health Plus plan with a total monthly cost to you of \$27.00 and an enrollment start date of April 1, 2016.

Also on March 3, 2016, NYSOH issued an eligibility determination notice that in part stated your children’s request for help paying medical bills for January 1, 2016 to February 29, 2016 was denied because Child Health Plus cannot pay for any care you received in the past.

On August 10, 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) According to your NYSOH account, your three children were enrolled in a Medicaid Managed Care plan from January 1, 2015 to December 31, 2015 through NYSOH.

- 2) You testified that you are appealing only your children's eligibility for and enrollment in Child Health Plus upon renewal for financial assistance in 2016.
- 3) You submitted an application to NYSOH for financial assistance on November 19, 2015 and reported an annual household income of \$43,000.00.
- 4) You testified that you updated your NYSOH account on November 19, 2015, with the assistance of a broker; and faxed in copies of four consecutive weeks of your most recent earnings statements and your and your spouse's 2014 federal tax return (Form 1040) on December 15, 2015. That facsimile was separated into two documents; both of which have a transmittal date of December 15, 2015 (Documents [REDACTED] and [REDACTED]).
- 5) Your earnings statements show that you received gross earnings of \$769.23 on 11/18/2015; \$769.23 on 11/26/15; \$769.23 on 12/2/2015; and \$769.23 on 12/9/2015 (Document [REDACTED]).
- 6) According to your 2014 Form 1040, you and your spouse had adjusted gross income of \$42,462.00 that year (Document [REDACTED]). That tax return shows that you take the full \$2,500.00 in student loan interest deduction to reach your adjusted gross income.
- 7) According to your NYSOH account, this document was invalidated in part because it was stamped "Client Copy," and not signed by you and your spouse, but signed by your paid tax preparer and dated 4/7/15.
- 8) According to your NYSOH account, the system estimated that your gross earnings were \$39,999.96 (\$769.23 x 52 weeks) and your spouse's earnings were \$8,000.00 in reaching a projected household income of \$47,999.96 and without deducting \$2,500.00 in student loan interest deduction.
- 9) According to your NYSOH account and your testimony, you updated your NYSOH account on January 19, 2016 and reported the same household income of \$43,000.00, which again resulted in NYSOH's request for additional income documentation to resolve the inconsistency between what you listed and federal and state data sources were providing.
- 10) You testified that you then got in a car accident and sustained injuries, which put on hold your attempts to resolve the problem with your NYSOH account and your children's health coverage until March 2016.

- 11) You testified and the activity in your NYSOH account confirms that on March 2, 2016, you again contacted NYSOH and with a click of a button, an agent was able to re-run your children's eligibility and they were redetermined for Child Health Plus, effective April 1, 2016. You also selected a Child Health Plus plan for your children with an enrollment start date of April 1, 2016.
- 12) You testified that you are seeking to have your children's eligibility for and enrollment in Child Health Plus made effective January 1, 2016, since you complied and provided adequate and accurate documentation to prove your household's income.

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 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 children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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

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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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were not determined eligible for Child Health Plus until March 2, 2016 and not enrolled in the Child Health Plus plan you selected for them until April 1, 2016, resulting in a gap in coverage from January 1, 2016 through March 31, 2016.

The record reflects that your children were eligible for and enrolled in Medicaid Managed Care from January 1, 2015 through December 31, 2015, and were due for renewal as of January 1, 2016.

Generally, NYSOH must redetermine qualified children's eligibility for financial assistance, including Medicaid and Child Health Plus, once every 12 months without requiring information for the individuals, if it is able to do so based on reliable information contained in the their account or other more current information available to the agency. NYSOH's October 23, 2015 renewal notice stated that there was not enough information to determine whether your children were eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

NYSOH issued three letters, dated November 20, 2015, January 12, 2016, and January 20, 2016, informing you that additional income documentation was needed before your children's eligibility for financial assistance could be redetermined.

Generally, when a child or children are being determined eligible for Child Health Plus in the first instance, they are presumed eligible for up to two months from the date of eligibility if they appeared eligible for Child Health Plus but one or more documents was missing. NYSOH provides a two month period of presumptive eligibility to children so as to avoid a gap in coverage, especially during transitioning from other insurance affordability programs, and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation; in your case, income documentation. Your children's 12 months of eligibility for Medicaid was due to end on December 31, 2015, and NYSOH determined that there was insufficient or inconsistent income information and disenrolled your children from their Medicaid Managed Care plan as of December 31, 2015, with no eligibility redetermination of financial assistance going forward. This resulted in a gap in coverage beginning January 1, 2016.

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However, the record reflects that on December 15, 2015, you faxed in a copy of your and your spouse's 2014 Form 1040, which showed adjusted gross earnings of \$42,462.00, after a deduction of \$2,500.00 in student loan interest was taken. At that time, your income was listed on your application as \$43,000.00. As such, the income you reported was verifiable by that document. It is not relevant that it was not signed by you or your spouse as it was signed by your paid tax preparer, which is sufficient for purposes of demonstrating income.

In addition, on December 15, 2015, you submitted four consecutive weeks of earning statements from your employment with the last of which dated 12/9/15 and showing your weekly salary was \$769.23 and year-to-date earnings were \$38,538.47. It is reasonable to infer from your earning statements that you were to receive three more paychecks in 2015 on December 16, 23, and 30, 2015 in the amount of \$769.23 each, for additional gross earnings of \$2,307.69, totaling your 2015 annual gross earnings of \$40,846.16. When added with your spouse's earnings of \$8,000.00, your household's total gross earnings were \$48,846.16, without taken into consideration the \$2,500.00 student loan interest deduction you would likely take in 2015. Therefore, the amount that NYSOH's system calculated to be \$47,999.96 was within 5% of accuracy and was verifiable as of December 15, 2015 or within 10 business days thereafter.

Further, under the presumptive eligibility rule, your children were entitled to two months of presumptive eligibility when it appeared they were eligible for Child Health Plus, beginning January 1, 2016, for up to two months during which time you were expected to comply and provide income documents, as the record reflects you had. Therefore, your children should have been determined presumptively eligible beginning January 1, 2016 for up to two months, that is, until February 29, 2016, so as to avoid a gap in their CHP coverage while transitioning from their Medicaid Managed Care plan at the time of renewal and to allow you sufficient time to submit adequate documentation to prove your household's income.

Further, since the income documents you provided on December 15, 2015 were verifiable, the letters stating additional income information was needed is incorrect. Since this information was provided and was verifiable within the two month period of presumptive eligibility for Child Health Plus beginning January 1, 2015 to February 29, 2016, your children should have been enrolled in Child Health Plus without condition as of February 1, 2016, at the latest.

Therefore, to bring NYSOH's notices in line with this decision, the following changes are made:

The March 3, 2016 eligibility redetermination notice is MODIFIED to state that your children were presumptively eligible to enroll in Child Health Plus as of January 1, 2016, known as "conditionally eligible," and were

redetermined fully eligible to enroll in Child Health Plus as of February 1, 2016.

The March 3, 2016 enrollment notice is MODIFIED to state that your children were conditionally enrolled in their Child Health Plus plan, effective January 1, 2016, and were enrolled without condition in their Child Health Plus plan, as of February 1, 2016.

Decision

The March 3, 2016 eligibility redetermination notice is MODIFIED to state that your children were presumptively eligible to enroll in Child Health Plus as of January 1, 2016, known as “conditionally eligible,” and were redetermined fully eligible to enroll in Child Health Plus as of February 1, 2016.

The March 3, 2016 enrollment notice is MODIFIED to state that your children were conditionally enrolled in their Child Health Plus plan, effective January 1, 2016, and were enrolled without condition in their Child Health Plus plan, as of February 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes and notify you accordingly.

Effective Date of this Decision: August 16, 2016

How this Decision Affects Your Eligibility

Your children were presumptively eligible for Child Health Plus as of January 1, 2016, and fully eligible as of February 1, 2016, such that they have no gap in health insurance coverage.

Your case is being returned to NYSOH to effectuate their eligibility dates for Child Health Plus and their enrollments in their Child Health Plus plan, as of January 1, 2016, conditionally, and as of February 1, 2016, without condition. There is no gap in their health insurance coverage.

NYSOH will notify you once these changes have been made.

You will be responsible for the payment of the January 2016, February 2016, and March 2016 premiums for your children.

If You Disagree with this Decision (Appeal Rights)

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).

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 March 3, 2016 eligibility redetermination notice is MODIFIED to state that your children were presumptively eligible to enroll in Child Health Plus as of January 1, 2016, known as “conditionally eligible,” and were redetermined fully eligible to enroll in Child Health Plus as of February 1, 2016.

The March 3, 2016 enrollment notice is MODIFIED to state that your children were conditionally enrolled in their Child Health Plus plan, effective January 1,

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2016, and were enrolled without condition in their Child Health Plus plan, as of February 1, 2016.

Your case is RETURNED to NYSOH to effectuate these changes and notify you accordingly.

Your children were presumptively eligible for Child Health Plus as of January 1, 2016, and fully eligible as of February 1, 2016, such that they have no gap in health insurance coverage.

Your case is being returned to NYSOH to effectuate their eligibility dates for Child Health Plus and their enrollments in their Child Health Plus plan, as of January 1, 2016, conditionally, and as of February 1, 2016, without condition. There is no gap in their health insurance coverage.

NYSOH will notify you once these changes have been made.

You will be responsible for the payment of the January 2016, February 2016, and March 2016 premiums for your children.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

