



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

Notice of Decision

Decision Date: September 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007665

[REDACTED]

Dear [REDACTED],

On August 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 2016 eligibility determination and enrollment confirmation 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 § 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: September 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007665



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 were disenrolled from their Child Health Plus plan effective February 29, 2016 and were not re-enrolled until March 3, 2016, resulting in a gap in coverage during the month of March, 2016?

Procedural History

On August 27, 2014, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your August 24, 2016, application, stating that your children were eligible for Child Health Plus, effective October 1, 2014. Your children were subsequently enrolled in a Child Health Plus plan.

On August 11, 2015, NYSOH issued a notice stating that it was time to renew your children's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your account by September 15, 2015 or your children might lose the financial assistance they were currently receiving.

On September 16, 2015, NYSOH received your updated application for financial assistance.

On September 17, 2015, an eligibility determination notice was issued finding your two children no long eligible for Child Health Plus, however their coverage would continue until October 31, 2015. The eligibility was effective October 1,

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

On January 13, 2016, NYSOH issued a notice stating that it was time to renew your children's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your account by February 15, 2016 or your children might lose the financial assistance they were 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 children were newly eligible to purchase a qualified health plan at full cost. The notice stated your children were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame.

That same day, a disenrollment notice was issued terminating your two children's enrollment in their Child Health Plus plan effective February 29, 2016.

On March 3, 2016, NYSOH received your children's updated application for health insurance and an enrollment in a Child health Plus plan was submitted.

That same day you contacted NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin March 1, 2016.

On March 4, 2016, NYSOH issued a notice of eligibility determination, based on your March 3, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium, effective April 1, 2016. The determination was based on your attested household income of \$94,000.00.

That same day, NYSOH issued a notice of enrollment, based on your plan selection on March 3, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on April 1, 2016.

On August 18, 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 had been signed up to receive notices via electronic notification at the time of your January 2016 renewal. You testified that you have since changed your preferences to receive notices via regular mail with NYSOH.
- 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 children's coverage.
- 3) You testified that your e-mail address has not changed since initially applying for health insurance with NYSOH.
- 4) You testified you had contacted NYSOH in January, 2016, and were told that you did not need to update your children's application.
- 5) The record reflects your children were redetermined eligible to enroll in a Child Health Plus plan October 1, 2015.
- 6) The record reflects that on March 3, 2016, NYSOH received your children's updated application for health insurance.
- 7) You testified that you are seeking your children be enrolled in their Child Health Plus plan as of March 1, 2016.
- 8) You reside in Rensselaer County.

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 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).

Child Health Plus Continuous Coverage

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)).

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

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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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were disenrolled from their Child Health Plus plan effective February 29, 2016, and were not re-enrolled until March 3, 2016, resulting in a gap in coverage during the month of March, 2016.

Your children were originally found eligible for Child Health Plus effective October 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 January 13, 2016, 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 February 15, 2016, or any such financial assistance might end. This notice was sent four months after you children's initial recertification and enrollment effective October 1, 2015.

Because there was no timely response to this notice, your children were terminated from their Child Health Plus plan, effective February 29, 2016.

However, under the presumptive eligibility rule, your children should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning April 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.

Additionally, your children's prior 12 month eligibility which began anew on October 1, 2015, should have ran continuously for 12 months until September 30, 2016, barring any disqualifying event occurring.

Therefore, March 4, 2016, eligibility determination notice is MODIFIED to state that your children were eligible to remain in Child Health Plus effective March 1, 2016.

The March 4, 2016, enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of March, 2016

Decision

The March 4, 2016, eligibility determination notice is MODIFIED to state that your children were eligible to remain in Child Health Plus effective March 1, 2016.

The March 4, 2016, enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of March 2016.

Effective Date of this Decision: September 20, 2016

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of March, 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.

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The March 4, 2016, eligibility determination notice is MODIFIED to state that your children were eligible to remain in Child Health Plus effective March 1, 2016.

The March 4, 2016, enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of March 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of March 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of March, 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:

