



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

Notice of Decision

Decision Date: August 24, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007744

[REDACTED]

Dear [REDACTED],

On August 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 3, 2016 disenrollment notice and March 8, 2016 notice of enrollment.

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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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:

Can the NY State of Health (NYSOH) Appeals Unit consider your appeal regarding the cancellation of your children's enrollment in their Child Health Plus plan, effective February 29, 2016, because of non-payment of premiums?

Did the NYSOH properly determine that your children's re-enrollment in Empire Blue Cross Blue Shield HealthPlus, as their Child Health Plus plan, was effective April 1, 2016?

Procedural History

On December 6, 2015, NYSOH issued an eligibility determination notice stating that each of your four children was eligible to enroll in Child health Plus (CHP) for a cost of \$9.00 per month. This eligibility determination was effective January 1, 2016.

On December 6, 2015, NYSOH issued a notice of enrollment confirming your enrollment of your children in Empire BlueCross BlueShield HealthPlus (Empire BCBS), as their CHP plan, with a January 1, 2016 start date.

On March 3, 2016, NYSOH issued a disenrollment notice confirming that each of your four children had been terminated from their CHP coverage with Empire BCBS, effective February 29, 2016, because of non-payment of premiums.

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On March 7, 2016, NYSOH received a revised application. Based on the information provided in this application, the NYSOH prepared a preliminary eligibility determination stating that each of your four children were found eligible to enroll in CHP at \$9.00 per month.

Also on March 7, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan insofar as it did not begin March 1, 2016, in order to avoid a one month gap in coverage.

On March 8, 2016, NYSOH issued a notice of eligibility determination, based on your March 7, 2016 application. It stated that each of your four children were eligible to enroll in CHP at cost of \$9.00 per month, effective April 1, 2016.

Also on March 8, 2016, NYSOH issued a notice of enrollment confirming your reenrollment of your children in Empire BCBS, as their CHP plan, as of March 7, 2016. Their coverage under Empire BCBS was scheduled to begin effective April 1, 2016.

On August 19, 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 your children's eligibility.
- 2) You testified, and the record reflects, that your children's CHP coverage was terminated as of February 29, 2016 for non-payment of premiums.
- 3) You testified that you timely paid the March 2016 premium for children's coverage through CHP; however, this payment had been inadvertently applied by Empire BCBS to a separate account. You further testified that you ultimately learned that this was due to Empire BCBS assigning your children a different ID number, so that the premiums you paid were being credited to an account under an older ID number.
- 4) You testified that the Empire BCBS representative instructed you that this could only be remedied by filing an appeal with NYSOH Appeals Unit.
- 5) You testified, and the record reflects, that you submitted a revised application to NYSOH for financial assistance on March 7, 2016 once you learned your children had been disenrolled from their CHP coverage with Empire BCBS.

- 6) The record reflects that you initially reenrolled your children in CHP coverage with Empire BCBS on March 7, 2016.
- 7) You testified that you need your children's CHP plan with Empire BCBS to begin on March 1, 2016 because you had incurred some out-of-pocket medical expenses in connection with your children's care during March 2016.

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 the Appeals Unit of NYSOH: (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) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

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

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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 first issue under review is whether NYSOH Appeals Unit can consider your appeal regarding the cancellation of your children's disenrollment from Empire BCBS, as their Child Health Plus plan, effective February 29, 2016 because of non-payment of premiums.

On March 3, 2016, NYSOH issued a disenrollment notice confirming that your children has been disenrolled from their CHP coverage effective February 29, 2016 for non-payment of premiums. You testified that you timely paid the premium due for coverage during March 2016; however, it was inadvertently applied by Empire BCBS to a separate account since you were unaware they had recently provided your children a different ID number.

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 NYSOH to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit.

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 your children were properly terminated from their CHP plan with Empire BCBS for non-payment of premiums. Therefore, your appeal of your children's disenrollment from Empire BCBS as of February 29, 2016 is **DISMISSED** as a non-appealable issue.

The second issue is whether NYSOH properly determined that your children's reenrollment in Empire BCBS, as their CHP plan, was effective April 1, 2016.

You testified that you contacted NYSOH on March 7, 2016 and reenrolled your children into Empire BCBS as their CHP plan.

The date on which a CHP plan can take effect 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. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

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Therefore, the March 8, 2016 notice of enrollment stating that your children's reenrollment in Empire BCBS as their CHP plan was effective April 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeal of your children's disenrollment from Empire BCBS as of February 29, 2016 for non-payment of premiums is DISMISSED as a non-appealable issue.

The March 8, 2016 notice of enrollment is AFFIRMED.

Effective Date of this Decision: August 24, 2016

How this Decision Affects Your Eligibility

The effective date of your children's coverage with Empire BCBS as their CHP plan is April 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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

Your appeal of your children's disenrollment from Empire BCBS as of February 29, 2016 for non-payment of premiums is **DISMISSED** as a non-appealable issue.

The March 8, 2016 notice of enrollment is **AFFIRMED**.

The effective date of your children's coverage with Empire BCBS as their CHP plan is April 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:

