



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

Notice of Decision

Decision Date: October 4, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007797

[REDACTED]

Dear [REDACTED]

On September 21, 2016, you appeared by telephone at a hearing on your appeal of your children’s NY State of Health’s March 10, 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 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:

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review start dates of coverage through NYSOH due to an alleged nonpayment of premiums?

Did NYSOH properly determine that your children's enrollment in their Child Health Plus (CHP) plan was effective April 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice that it was time to renew your children's health insurance for 2016. That notice stated that you needed to update your account by December 15, 2015 or your children might lose the financial assistance they were currently receiving.

You updated your children's account on December 10, 2015.

On December 11, 2015, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP at a cost of \$30.00 per month each, effective January 1, 2016.

On January 25, 2016 you contacted NYSOH, updated your account and confirmed your children's enrollment in their CHP plan.

On January 26, 2016 NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in CHP at a cost of \$9.00 per month, effective March 1, 2016.

Also on January 26, 2016 NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a CHP plan and that their coverage would start March 1, 2016.

On February 12, 2016 your NYSOH account was updated again and your children's CHP plan was confirmed.

On March 9, 2016, you called to NYSOH to update your children's account and reenroll them into a CHP plan.

Also on March 9, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plans insofar as they did not have coverage as of February 1, 2016.

On March 10, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a CHP plan, effective April 1, 2016.

On September 21, 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, you are appealing your children's CHP enrollment start date of April 1, 2016. You want your children's CHP Plan to be effective February 1, 2016.
- 2) You renewed your children's coverage for CHP on December 10, 2015 for the 2016 insurance year.
- 3) You updated your children's account on January 25, 2016 and on February 12, 2016 and confirmed their enrollment in a CHP plan.
- 4) You testified that your children were without coverage in their CHP plan for the months of February and March 2016.
- 5) You testified that until February 2016, you were unaware that your children were without health coverage until you took one of your

children's to their doctor's and were advised that your children had no health coverage.

- 6) You testified you paid your January 2016 CHP premiums and you did not pay your February 2016 premiums.
- 7) You testified you did not pay the February 2016 CHP premiums for your children because a representative at NYSOH advised you that because your children's premiums had been reduced, you had overpaid the health plan and that overpayment would be applied to February's premiums. You testified that the audio recordings of the telephone calls with the NYSOH would verify this.
- 8) In the audio recording of February 12, 2016, you told the NYSOH representative that you did not pay your February premiums. You did not mention that you made any January payment.
- 9) In the audio recording of February 22, 2016, you state you tried to make a payment for March coverage to your children's CHP plan but the health plan refused to take it because they did not see the enrollment for March and you were advised to call NYSOH.
- 10) You called NYSOH back on March 9, 2016, to update your children's account, with a health plan representative on the line. The representative from your children's health plan confirmed the cancellation of your children's health plan due to non-payment of premium on January 31, 2016.
- 11) Also in the March 9, 2016 audio recording, the NYSOH representative advised she could only enroll the children with an effective date of March 1, 2016 because you were terminated for non-payment of premium and didn't reenroll your children until January 25, 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

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exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

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).

Legal Analysis

The first issue under review is whether the Appeals Unit of NYSOH has the authority to review start dates of coverage through NYSOH due to non-payment of premiums.

On December 11, 2015, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP at a cost of \$30.00 per month for each child, effective January 1, 2016. You subsequently enrolled your children into a CHP Plan.

You testified you paid your January 2016 CHP premiums and you did not pay your February 2016 premiums. You also testified you did not pay the February 2016 CHP premiums for your children because a representative at the NYSOH advised you that because your children’s premiums had been reduced, you had overpaid the health plan and that overpayment would be applied to February’s premiums.

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The audio recordings and the rest of the record are inconsistent with your testimony. In particular, the March 9, 2016 audio recording during which a representative from your children's health plan confirmed the cancellation of your children's health plan due to non-payment of premium on January 31, 2016. There were no recordings indicating that you should not pay your February premium.

Therefore, since you did not make your premium payments, it resulted in a termination of your children's CHP Plus Plan effective January 31, 2016.

The New York State of Health 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, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review issues that arise due to non-payment of premiums, we cannot reach the merits as to whether your children were properly disenrolled from CHP for non-payment of premiums. Therefore, your appeal of your children's disenrollment from the CHP plan as of January 31, 2016 is DISMISSED as a non-appealable issue.

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

The record indicates that on January 25, 2016 you contacted NYSOH and updated your children's enrollment in their CHP plan, which resulted in your children's enrollment in a CHP plan at a cost of \$9.00 per month. On January 26, 2016 NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a CHP plan and that their coverage would start March 1, 2016.

On February 22, 2016 you contacted NYSOH because you were concerned with your children's enrollment for March, 2016. You stated your health plan did not see enrollment for the month of March and they refused to accept payment for that month.

You called NYSOH with a representative from your children's CHP Plan on March 9, 2016 in order to start coverage with the plan. During that phone call, the NYSOH representative advised you she could only enroll the children with an effective date of March 1, 2016.

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

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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.

You selected a CHP plan for your children on January 25, 2016. Since you selected a plan after the 15th of January, the effective date would have been the first day of the second following month, or in your children's case, March 1, 2016. Had the health plan accepted your payment at that time, your children would have been enrolled in CHP effective March 1, 2016. Thus, the March 10, 2016 enrollment confirmation notice stating that your children's enrollment in their CHP plan was effective April 1, 2016 is incorrect and must be MODIFIED to state your children's CHP coverage was effective March 1, 2016.

Decision

Your appeal of your children's disenrollment for non-payment of premium is DISMISSED as a non-appealable issue.

The March 10, 2016 enrollment confirmation is MODIFIED to state that your children's enrollment in their CHP was effective March 1, 2016.

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

Effective Date of this Decision: October 4, 2016

How this Decision Affects Your Eligibility

The NYSOH Appeals Unit does not have the authority to review whether your children were properly disenrolled for non-payment of their CHP premium.

The effective date of your children's 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.

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your appeal of your children's disenrollment for non-payment of premium is **DISMISSED** as a non-appealable issue.

The March 10, 2016 enrollment confirmation is **MODIFIED** to state that your children's enrollment in their CHP was effective March 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your children in their CHP 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:

