



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

Notice of Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007801

[REDACTED]

Dear [REDACTED],

On August 24, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 9, 2016 eligibility determination 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 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).

This page intentionally left blank.



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

Decision

Decision Date: September 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007801



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?

Procedural History

On January 14, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your January 13, 2015 application, stating that your children were eligible for Child Health Plus (CHP), effective February 1, 2015. Your children were subsequently enrolled in a CHP plan.

On December 21, 2015, NYSOH issued a notice stating that it was time to renew your children's health insurance for 2016. 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 January 15, 2016 or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by January 15, 2016.

On January 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, CHP, Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance., and your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not

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).

completed the renewal within the required time frame. Your children's eligibility ended effective January 31, 2016.

Also on January 17, 2016, NYSOH issued a disenrollment notice stating that your children's coverage with their CHP plan would end effective January 31, 2016.

On March 9, 2016, NYSOH received your children's updated application for health insurance and issued a preliminary eligibility determination stating that your children were eligible for CHP. Also on that date, you selected a CHP plan for your children.

Also on March 9, 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.

On March 10, 2016, NYSOH issued a notice of eligibility redetermination, based on your March 9, 2016 application, stating that your children were eligible to enroll in CHP with a \$9.00 monthly premium for each child, effective April 1, 2016.

Also on March 10, 2016, NYSOH issued a notice of enrollment, based on your plan selection on March 9, 2016, stating that your children were enrolled in a CHP plan and that coverage would start on April 1, 2016.

On August 24, 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, that you receive all of your notices from NYSOH by electronic mail.
- 2) You credibly testified that you have search your email records and found no electronic alerts or emails regarding any notice from NYSOH telling you that you needed to update your application in order to renew your children's coverage.
- 3) You testified that you did not know that you needed to update your account until early March 2016 when one of your children needed a prescription filled and the pharmacy told your spouse that the children did not have insurance.

- 4) The record reflects that, on March 9, 2016, NYSOH received your children's updated application for health insurance.
- 5) You testified that you are seeking to have your children be enrolled in their CHP plan as of March 1, 2016.

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

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).

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account within 1 day of the notice being generated (45 CFR §155.230(d); 42 CFR §435.918(b)(3) and (4). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

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

Your children were originally found eligible for CHP, effective February 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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 December 21, 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 before January 15, 2016, or any such financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their CHP plan, effective January 31, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Since you elected to receive communications from NYSOH electronically, it was required to post notices to your electronic account within one business day of notice generation. NYSOH

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).

was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The December 21, 2015 renewal notice and the January 17, 2016 eligibility redetermination notice were posted to your account, but the record contains no evidence the Marketplace sent the required e-mails to tell you that these notices, or the January 17, 2016 disenrollment notice, were available in your account. The record also does not indicate whether, if the electronic notices were not delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You testified you did not receive any e-mails telling you that these notices were available in your NYSOH account and that your children's CHP coverage was being discontinued.

Lacking evidence to the contrary, it is concluded that you did not receive notice regarding the need for additional information to confirm your eligibility through the NYSOH.

Further, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your children's behalf.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on March 9, 2016 and, therefore, we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the March 10, 2016 notice of eligibility redetermination is MODIFIED to state that, effective March 1, 2016, your children are eligible to enroll in CHP with a \$9.00 premium per month for each child, and the March 10, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their CHP plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Decision

The March 10, 2016 notice of eligibility redetermination is MODIFIED to state that, effective March 1, 2016, your children are eligible to enroll in CHP with a \$9.00 premium per month for each child.

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

Your case is RETURNED to NYSOH to effectuate the changes listed above and notify you accordingly.

Effective Date of this Decision: September 1, 2016

How this Decision Affects Your Eligibility

By this decision, your children's eligibility for and enrollment in their CHP plan is being made effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan as of March 1, 2016 and to notify once this has been done.

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:

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).

NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The March 10, 2016 notice of eligibility redetermination is MODIFIED to state that, effective March 1, 2016, your children are eligible to enroll in CHP with a \$9.00 premium per month for each child.

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

Your case is RETURNED to NYSOH to effectuate the changes listed above and notify you accordingly.

By this decision, your children's eligibility for and enrollment in their CHP plan is being made effective as of March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan as of March 1, 2016 and to notify once this has been done.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

