



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

Notice of Decision

Decision Date: October 14, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008095

[REDACTED]

Dear [REDACTED],

On September 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 13, 2016 eligibility redetermination and disenrollment 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 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]
Appeal Identification Number: AP000000008095



Issue

The issue presented for review by the Appeals Unit of NY State of Health (NYSOH) is:

Did NY State of Health properly determine that your youngest child's eligibility for and enrollment in Child Health Plus (CHP) terminated effective March 31, 2016?

Procedural History

On May 28, 2015, your youngest child was added to your NYSOH account and an application was submitted on his behalf.

On May 29, 2015, NYSOH issued an eligibility determination notice stating that your youngest son was conditionally eligible to enroll in a Child Health Plus (CHP) plan at a cost of \$30.00 per month, effective July 1, 2015. The notice further stated that you needed to provide documentation of your son's citizenship status and Social Security number before August 26, 2015.

Also on May 29, 2015, NYSOH issued a notice confirming your youngest child's enrollment in a CHP plan, effective July 1, 2015.

On August 13, 2015, your NYSOH account was updated.

On August 14, 2015 NYSOH issued an eligibility redetermination notice stating that your youngest son was conditionally eligible to enroll in a CHP plan at a cost of \$30.00 per month, effective September 1, 2015. The notice further stated that you needed to

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provide documentation of your son's citizenship status and Social Security number before November 11, 2015.

On August 15, 2015, an enrollment confirmation notice was issued stating that your son was enrolled in a CHP plan, effective July 1, 2015.

On December 6, 2015, NYSOH issued an eligibility redetermination notice stating that your youngest son was no longer eligible for CHP because you had not provided documentation of his citizenship status and his Social Security number. The notice further stated that you must obtain a Social Security number for your youngest son so that NYSOH could determine what health insurance program he might qualify for. Your youngest son's eligibility would end effective December 31, 2015.

Also on December 6, 2015 NYSOH issued a disenrollment notice, stating that your youngest son's enrollment in his CHP plan would end on December 31, 2015.

On December 8, 2015, your NYSOH account was updated.

On December 9, 2015, NYSOH issued an eligibility determination notice stating that your youngest son was conditionally eligible to enroll in CHP coverage at a cost of \$30.00 per month, effective January 1, 2016. The notice further stated that you needed to provide documentation of your youngest son's citizenship status and Social Security Number before March 7, 2016.

Also on December 9, 2015, NYSOH issued a notice of enrollment confirmation confirming your youngest son's enrollment in a CHP plan, effective January 1, 2016.

On March 13, 2016, NYSOH issued an eligibility redetermination notice stating that your youngest son was no longer eligible for CHP because you had not provided documentation of his citizenship status and his Social Security number. The notice further stated that you must obtain a Social Security number for your youngest son so that NYSOH could determine what health insurance program he might qualify for.

Also on March 13, 2016, NYSOH issued a disenrollment notice, stating that your youngest son's enrollment in his CHP plan would end on March 31, 2016.

On March 21, 2016, you updated your NYSOH account.

Also on March 21, 2016, you contacted NYSOH's Account Review Unit and appealed the fact that your youngest son had a gap in his CHP coverage for the month of April 2016.

On March 22, 2016, NYSOH issued an eligibility determination notice stating that your youngest son was conditionally eligible to enroll in CHP coverage at a cost of \$30.00 per month, effective May 1, 2016. The notice further stated that you needed to provide

documentation of your youngest son's citizenship status and Social Security Number before June 19, 2016.

Also on March 22, 2016, NYSOH issued a notice of enrollment confirmation confirming your youngest son's enrollment in a CHP plan, effective May 1, 2016.

On September 14, 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 supports the following findings of fact:

- 1) You testified that you first added your youngest son to your NYSOH application with the help of a representative from a health plan who came to your house.
- 2) You testified that this representative told you that you would need to submit your youngest son's Social Security number when you obtained it, but did not tell you that there was any deadline.
- 3) You testified that you were unaware of any notices from NYSOH that mentioned deadlines for submitting your youngest son's Social Security number or birth certificate.
- 4) You testified that you had a problem with your youngest son's birth certificate because there was an error in the spelling of his name. You testified that you got this issue resolved in early 2016, and then had to file a new application for a Social Security number for your youngest son.
- 5) You testified that you contacted NYSOH on December 8, 2015 because your youngest son had been disenrolled from his coverage. You testified that you told the representative that you were having a problem getting his Social Security number, and that the representative made a note of the issue.
- 6) After the hearing, the Hearing Officer requested the recording of your December 8, 2015 phone conversation with NYSOH and listened to the recording in its entirety. The recording confirms that you informed the NYSOH representative that you were having a problem getting your youngest son's Social Security number because of a problem with his birth certificate. The recording also confirms that the representative stated that she would make a note of the issue, and confirms that she did not notify you of any deadline for the requested documentation.

- 7) The record reflects that you uploaded a copy of your youngest son's birth certificate and Social Security card to your NYSOH account on May 2, 2016.
- 8) Your youngest son's birth certificate contains an entry titled "1A" on line 12, "Information Added or Corrected." The entry notes that there was a correction made on January 12, 2016. The birth certificates shows a filing date of January 11, 2016. [REDACTED]
- 9) Your youngest son's Social Security card is dated [REDACTED] [REDACTED]
[REDACTED]

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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 for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

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If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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).

Legal Analysis

The only issue under review is whether NYSOH properly determined that that your youngest child's eligibility for and enrollment in CHP terminated effective March 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their social security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or social security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your youngest child was added to your NYSOH account on May 28, 2015. The application that was submitted that day indicates that he was a U.S Citizen but he did not have a social security number because you were in the process of applying for one.

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In the eligibility determinations issued on May 29, 2015, August 14, 2015, and December 9, 2015 you were advised that your youngest child's eligibility for CHP was only conditional, and that you needed to confirm his social security number and citizenship status. The last deadline for submission of these documents was March 7, 2016.

You testified that you enrolled your child in NYSOH with the assistance of an application counselor who came to your house. You testified that this person informed you that you would need to submit your youngest child's Social Security number, but that she did not inform you of any deadline for doing so. You further testified that you did not receive any of the notices informing you that you needed to submit documentation of your child's citizenship status and Social Security number. However, the record reflects that you receive notices from NYSOH by regular mail, and that none of the eligibility determination notices were returned to NYSOH as undeliverable. Therefore, it is concluded that NYSOH gave you proper notice of the requirement to furnish documentation of your child's citizenship status and Social Security number.

The record reflects that you spoke with a representative from NYSOH by telephone on December 9, 2015 to re-enroll your child in coverage, and that you informed this representative that you were having a problem getting your child's Social Security number because of an error on his birth certificate. The record reflects that the representative stated that she would make a note of this issue. However, she did not tell you a new deadline for submission of the information, nor did she state that the deadline would be put on hold or extended past the usual 90 days.

On March 13, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in his CHP plan would end effective March 31, 2016 because he was no longer eligible to enroll in health insurance through NYSOH. This was because NYSOH did not receive documentation of his citizenship status and Social Security number.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your youngest child from his CHP plan was dated March 13, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of March 18, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your youngest child's CHP eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until May 1, 2016.

Therefore, NYSOH failed to provide you with sufficient notice to have allowed you to take action in order to prevent a gap in CHP coverage for your youngest child for the month of April 2016, and the March 13, 2016 eligibility determination and disenrollment notices are RESCINDED.

Decision

The March 13, 2016 eligibility determination notice is RESCINDED.

The March 13, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your youngest child into his CHP plan for the month of April 2016.

Effective Date of this Decision: October 14, 2016

How this Decision Affects Your Eligibility

Your youngest child should not have been terminated from his CHP coverage and plan in April 2016 for failure to submit proof of his citizenship status and Social Security Number.

Your case is being sent back to NYSOH to reinstate your youngest child into his CHP plan for the month of April 2016.

You are responsible for any outstanding premium payment for April 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 after the date 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

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of the date 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 13, 2016 eligibility determination notice is RESCINDED.

The March 13, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your youngest child into his CHP plan for the month of April 2016.

Your youngest child should not have been terminated from his CHP coverage and plan in April 2016 for failure to submit proof of his citizenship status and Social Security Number.

Your case is being sent back to NYSOH to reinstate your youngest child into his CHP plan for the month of April 2016.

You are responsible for any outstanding premium payment for April 2016.

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A Copy of this Decision Has Been Provided To:

