



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

Notice of Decision

Decision Date: September 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008279

[REDACTED]

Dear [REDACTED],

On September 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 19, 2016 eligibility determination notice and the February 22, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: September 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008279

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2016?

Procedural History

On March 3, 2015, NYSOH issued a notice of eligibility determination, based on your March 2, 2015 application, stating that your child remained conditionally eligible for Medicaid effective March 1, 2015. Your child was subsequently enrolled in a Medicaid Managed Care (MMC) plan.

On January 15, 2016, NYSOH issued a notice that it was time to renew your child'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 child would qualify for financial help paying for his health coverage, and that you needed to update your account by February 15, 2016 or your child might lose the financial assistance he was 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 child was not eligible for Medicaid, Child Health Plus (CHP), or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a qualified health plan at full cost.

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This was because you had not responded to the renewal notice and had not completed your child's renewal within the required time frame. Your child's eligibility ended February 29, 2016.

On February 18, 2016, NYSOH issued a disenrollment notice confirm that your child's MMC plan coverage would end effective February 29, 2016.

Also on February 18, 2016, NYSOH received your child's updated application for health insurance.

On February 19, 2016, NYSOH issued a notice of eligibility determination, based on your February 18, 2016 application, stating that your child was eligible to enroll in CHP with a \$45.00 monthly premium, effective April 1, 2016.

Also on February 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 18, 2016, stating that your child was enrolled in a CHP plan and that his coverage would start on April 1, 2016.

On March 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin March 1, 2016.

On September 22, 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 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 child's coverage.
- 3) You testified that you did not know that you needed to update your account until you incurred approximately \$140.00 in out-of-pocket medical expenses, after being told by a NYSOH representative that your child's coverage would be begin to March 1, 2016.
- 4) The record reflects that on February 18, 2016, NYSOH received your child's updated application for health insurance.

- 5) You testified that you are seeking that your child 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 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 either by electronic alerts or by 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 (45 CFR § 155.230(d); 42 CFR §435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's enrollment in his CHP plan was effective April 1, 2016.

Your child was originally found eligible for Medicaid effective March 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if 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 15, 2016 renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016, or your financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his Medicaid plan effective February 29, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your

application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to update your account.

You first renewed your child's eligibility for financial assistance through NYSOH for 2016 on February 18, 2016, and enrolled your child into a CHP plan that day. 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

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 between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the February 19, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, your child is eligible to enroll in Child Health Plus with a \$45.00 premium per month, and the February 22, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes to your child's eligibility and enrollment as noted above.

Decision

The February 19, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, your child is eligible to enroll in Child Health Plus with a \$45.00 premium per month.

The February 22, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes to your child's eligibility and enrollment as noted above.

Effective Date of this Decision: September 27, 2016

How this Decision Affects Your Eligibility

The effective date of your child'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.

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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- By fax: 1-855-900-5557

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Summary

The February 19, 2016 eligibility determination notice is MODIFIED to state that, effective March 1, 2016, your child is eligible to enroll in Child Health Plus with a \$45.00 premium per month.

The February 22, 2016 notice of enrollment is MODIFIED to state that your child's enrollment in his CHP plan is effective March 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes to your child's eligibility and enrollment as noted above.

The effective date of your child's CHP plan is March 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:

