



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

Notice of Decision

Decision Date: September 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008420

[REDACTED]

Dear [REDACTED],

On September 1, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 eligibility determination.

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 (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: AP000000008420

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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 children's eligibility for financial assistance and enrollment in a Child Health Plus plan ended effective March 31, 2016?

Procedural History

On October 24, 2015, NYSOH issued a renewal notice indicating insufficient information from state and federal data sources to determine if you and your family could get help paying for your insurance or what coverage you and your family could have in the upcoming year (2016). The renewal notice requested that you update the information in your account by December 15, 2015.

On December 7, 2015, NYSOH issued a notice of eligibility determination stating that your children were conditionally eligible to receive Child Health Plus effective January 1, 2016. The notice further requested that you provide documentation confirming your income before February 4, 2016.

On December 7, 2015, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan.

On March 15, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a Child Health Plus plan at full

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cost because you had not confirmed your income within the required timeframe. Your children's eligibility for coverage ended effective March 31, 2016.

On March 15, 2016 a disenrollment notice was issued advising you that your children's coverage in their Child Health Plus plan would end effective March 31, 2016.

On March 16, 2016, income documentation was uploaded to your NYSOH account.

On March 24, 2016, an eligibility determination was issued which found your children eligible to reenroll in Child Health Plus effective May 1, 2016.

On March 29, 2016 you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your children's financial assistance eligibility and enrollment in a Child Health Plus plan on March 31, 2016 and found your children eligible to reenroll in a Child Health Plus plan on May 1, 2016.

On September 1, 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) The record reflects, that you receive all of your notices from NYSOH via electronic mail.
- 2) You testified that you receive your notices via regular mail and electronic mail.
- 3) You testified that, with regard to the October 24, 2015 renewal notice, you did receive an alert from NYSOH that there was a new notice in your NYSOH account.
- 4) You testified that you were not checking your e-mail for alerts regarding your NYSOH account until March of 2016 and that you were not actively looking for alerts regarding your account at the time when the December 7, 2015 eligibility determination was issued.
- 5) You testified that you believe you received the December 7, 2015 eligibility determination via regular mail.

- 6) You testified that you did not know if you were sent electronic correspondence regarding the December 7, 2015 eligibility determination.
- 7) You testified that you did not know that you needed to submit documentation of your income until March 15th or March 16th, when you received notice that your children were to be disenrolled from their Child Health Plus plan effective March 31, 2016.
- 8) The record reflects that on March 16, 2016 NYSOH received documentation of your income.
- 9) You testified that you are seeking reinstatement for your children's Child Health Plus plan as of April 1, 2016.

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 (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income between 138% and 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

"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 e.g.

State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child may be enrolled presumptively for two months while the missing documentation is collected (see *e.g.* 42 CFR § 457.355, 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 (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were no longer eligible to enroll in a Child Health Plus plan through NYSOH, 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, that their income documentation is satisfactory.

If NYSOH cannot verify an individual's income documentation, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on December 7, 2015 you were advised that your children's eligibility was only conditional, and that you needed to confirm your income by submitting documentation before February 4, 2016. The February 4, 2016 deadline to submit the requested documentation was less than two months from the date you would have been made aware of the inconsistency.

Since NYSOH failed to provide you with the required two-month period for you to submit the requested documentation, NYSOH's March 15, 2016 eligibility determination is **RESCINDED**. The matter is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of April 2016.

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).

Decision

The March 15, 2016 eligibility determination is RESCINDED.

The matter is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of April 2016.

Effective Date of this Decision: September 8, 2016

How this Decision Affects Your Children's Eligibility

NYSOH failed to provide you with the required two-month period to submit documentation. Your children were improperly disenrolled from their Child Health Plus plan as a result.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of 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 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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Albany, NY 12211
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Summary

The March 15, 2016 eligibility determination is RESCINDED.

The matter is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of April 2016.

NYSOH failed to provide you with the required two-month period to submit documentation. Your children were improperly disenrolled from their Child Health Plus plan as a result.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

