



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

Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008499

[REDACTED]

Dear [REDACTED],

On October 11, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's March 31, 2016 enrollment 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008499

[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 children were eligible for coverage through Child Health Plus effective May 1, 2016, rather than March 1, 2016?

Procedural History

On December 11, 2015, NYSOH received a revised application for health insurance.

On December 12, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 11, 2015 application. The notice stated that your two children were no longer eligible for Medicaid; however, their Medicaid coverage would continue until January 31, 2016. The notice directed you to confirm your income by December 26, 2015, and to update your application between December 17, 2015 and January 16, 2016, so that an appropriate decision on their eligibility for financial assistance could be rendered for the upcoming coverage year.

On January 21, 2016, NYSOH received a revised application for health insurance.

Also on January 21, 2016, NYSOH received (1) a letter issued by [REDACTED], dated January 14, 2016, stating that you worked as an [REDACTED] and providing your weekly gross income, and (2) four

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earning statements issued to your spouse by [REDACTED] between October 8, 2015 and December 17, 2015.

On January 22, 2016, NYSOH issued a notice stating that your January 21, 2016 application had been reviewed and that your children might be eligible for health insurance through NYSOH. The notice also stated that the information you provided in your application did not match what NYSOH obtained from state and federal data sources. You were directed to provide income documentation by February 6, 2016 to confirm the information you provided in your application was accurate.

Also on January 22, 2016, NYSOH issued a disenrollment notice stating that your children's coverage would end effective February 29, 2016.

On January 26, 2016, NYSOH received an earnings summary issued to your spouse by [REDACTED] reflecting her gross earnings between June 26, 2015 and December 13, 2015.

On January 29, 2016, NYSOH received a revised application for health insurance.

On January 30, 2016, NYSOH issued a notice stating that your January 29, 2016 application had been reviewed and that your children might be eligible for health insurance through NYSOH. The notice also stated that the information you provided in your application did not match what NYSOH obtained from state and federal data sources. You were directed to provide income documentation by February 14, 2016 to confirm the information you provided in your application was accurate.

On February 1, 2016 and February 17, 2016, NYSOH issued notices confirming receipt of your additional income documentation. The notices stated, however, that the documentation you provided was insufficient to resolve the inconsistency in your application. You were directed to provide additional documentation to prove the income earned by you and your spouse.

On February 25, 2016, NYSOH received a revised application for health insurance.

On February 26, 2016, NYSOH issued a notice stating that your February 25, 2016 application had been reviewed and that your children may be eligible for health insurance through NYSOH. The notice also stated that the information you provided in your application did not match what NYSOH obtained from State and Federal data sources. You were requested to provide income documentation by March 12, 2016 to confirm the information you provided in your application was accurate.

On March 25, 2016, NYSOH again issued a notice confirming receipt of additional income documentation. The notice stated that the documentation you provided was insufficient to resolve the inconsistency in your application. You were directed to provide additional documentation to prove the income earned by you and your spouse.

On March 29, 2016, NYSOH received a revised application for health insurance.

Also on March 29, 2016, NYSOH received (1) four earning statements issued to you by [REDACTED], between March 3, 2016 and March 24, 2016, and (2) a letter issued to you by [REDACTED], issued March 28, 2016, confirming your anticipated earnings and working schedule.

On March 30, 2016, NYSOH issued an eligibility determination notice based on the information contained in the March 29, 2016 application. The notice stated that your children were eligible to enroll in Child Health Plus (CHP) for \$9.00 per month each, effective May 1, 2016.

Also on March 30, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the March 30, 2016 eligibility determination notice insofar as your children were found eligible for CHP plan coverage effective May 1, 2016, rather than March 1, 2016.

On March 31, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your children's coverage as of March 29, 2016. The notice confirmed that their CHP plan coverage would begin effective May 1, 2016.

On October 11, 2016, NYSOH received a letter providing a chronology of event from your perspective on your children's non-enrollment.

Also on October 11, 2016, you spouse, appearing on your behalf, 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) Your spouse testified that you appealing solely on behalf of your two oldest children.
- 2) The record reflects your children's Medicaid coverage was due to end effective January 31, 2016 as a result of "continuous coverage" guidelines;

however, this termination of Medicaid coverage for your children was extended until February 29, 2016 by NYSOH.

- 3) Your application was updated on January 21, 2016 in which you attested to an annual household income of \$22,779.00, which was comprised of income you and your spouse anticipated to receive during 2016.
- 4) On January 22, 2016, NYSOH issued a notice requesting additional income documentation to confirm the information contained in your application was accurate. No explanation was provided as to the nature of the deficiency in the evidence you submitted, nor was any explanation provided in any subsequent notice.
- 5) On January 21, 2016, you provided to NYSOH a letter issued by [REDACTED], dated January 14, 2016, that your current contract would end effective January 31, 2016 and that your gross weekly salary of \$659.00, and four earning statements issued to your spouse by [REDACTED]. reflecting that she received (1) \$3,000.00 on October 8, 2015, (2) \$206.25 on November 25, 2015, (3) \$131.25 on December 3, 2015, and (4) \$88.00 on December 17, 2015.
- 6) On January 26, 2016, you provided to NYSOH received an earnings summary issued to your spouse by [REDACTED] reflecting her gross earnings between June 26, 2015 and December 13, 2015.
- 7) The NYSOH rejected the documents submitted by you January 21, 2016 and January 26, 2016 as not valid, again without explanation.
- 8) You revised your application and provided additional income documentation March 29, 2016, in which you (1) four earning statements issued to you by [REDACTED] between March 3, 2016 and March 24, 2016, and (2) a letter issued to you by [REDACTED], issued March 28, 2016, confirming your anticipated earnings and working schedule. These documents were deemed valid income documents by NYSOH to find your children eligible for CHP effective May 1, 2016.
- 9) Your children were each enrolled in CHP effective May 1, 2016.
- 10) Your spouse testified that you were seeking to have your children's CHP plan coverage backdated to March 1, 2016. Your spouse further testified that your children were not coverage during the months of March and April 2016 because the NYSOH notices and representatives were never clear on the documentation that would be found acceptable.

11) Your spouse testified that as a result of your children not having been covered during the months of March and April 2016, you incurred approximately \$2,500.00 in out-of-pocket medical expenses.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data from agency sources that will allow the Marketplace to verify the household's income (45 CFR § 155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f)).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were eligible for coverage through CHP effective May 1, 2016, rather than March 1, 2016.

The record reflects that based on a revised application submitted to NYSOH on December 11, 2015, your children were found no longer eligible for Medicaid; however their Medicaid coverage would continue until January 31, 2016. This notice instructed you to update your NYSOH account between December 17, 2015 and January 16, 2016. Their Medicaid coverage was subsequently extended until February 29, 2016.

The record further reflects that you revised your application on January 21, 2016 in which you attested to a household income of \$22,779.00.

A notice was then issued on January 22, 2016, stating you still needed to provide proof of income. You were asked to submit additional income documents by February 6, 2016 in order to make an eligibility determination.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On January 21, 2016, you provided a letter issued by [REDACTED], dated January 14, 2016, that your current contract would end effective January 31, 2016 and that your gross weekly salary of \$659.00, and four earning statements issued to your spouse by [REDACTED] reflecting you're your spouse received (1) \$3,000.00 on October 8, 2015, (2) \$206.25 on November 25, 2015, (3) \$131.25 on December 3, 2015, and (4) \$88.00 on December 17, 2015. Separately, on January 26, 2016, you provided to NYSOH received an earnings summary issued to your spouse by [REDACTED] reflecting her gross earnings between June 26, 2015 and December 13, 2015. These documents were deemed invalid by NYSOH because the earning statements were not provided by you and your spouse did not provide earning statement that were reasonably current within 30 days of January 21, 2016 application.

On February 1, 2016, NYSOH issued a notice stating that additional documentation was required to issue a determination for your children. However, we find that this notice did not provide sufficiently precise information regarding which documents would be accepted as proof by NYSOH, the age of earnings statements that would be acceptable, or the deadline by which such documents were required to be sent to NYSOH.

The record supports that you uploaded additional income documentation on March 29, 2016, which included (1) four earning statements issued to you by [REDACTED] between March 3, 2016 and March 24, 2016, and (2) a letter issued to you by [REDACTED], issued March 28, 2016, confirming your anticipated earnings and working schedule. The documentation uploaded to your NYSOH Account on March 29, 2016, contained sufficient information for NYSOH to render an eligibility determination.

Since the notification issued by NYSOH on February 1, 2016 was not reasonably clear on which documents to be accepted as proof of income and the date by which they would be accepted by NYSOH, we must assume that this is the information would have been used had you been properly informed by the notice issued by NYSOH on February 1, 2016.

Therefore, the March 30, 2016, enrollment notice is MODIFIED to state that your children were enrolled in their CHP plan with a coverage start date of March 1, 2016.

Your case is RETURNED to enroll your children in CHP coverage effective March 1, 2016, provided the necessary premiums are remitted to the insurance carrier.

Decision

The March 30, 2016, enrollment notice is MODIFIED to state that your children were enrolled in their CHP plan with a coverage start date of March 1, 2016.

Your case is RETURNED to enroll your children in CHP coverage effective March 1, 2016, provided the necessary premiums are remitted to the insurance carrier.

Effective Date of this Decision: December 8, 2016

How this Decision Affects Your Eligibility

Your children's CHP coverage began effective 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.

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).

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

Summary

The March 30, 2016, enrollment notice is MODIFIED to state that your children were enrolled in their CHP plan with a coverage start date of March 1, 2016.

Your case is RETURNED to enroll your children in CHP coverage effective March 1, 2016, provided the necessary premiums are remitted to the insurance carrier.

Your children's CHP coverage began effective March 1, 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:

