



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

Notice of Decision

Decision Date: October 17, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008572

[REDACTED]

Dear [REDACTED],

On October 11, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2016 eligibility determination and the April 2, 2016 enrollment confirmation 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.

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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008572



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 disenrolled from their Child Health Plus plan effective February 29, 2016 and were not re-enrolled until May 1, 2016, resulting in a gap in coverage during the months of March and April 2016?

Procedural History

On January 23, 2015, NYSOH issued a notice of eligibility determination, based on your January 22, 2015 application, stating that your children were eligible for Child Health Plus (CHP) effective March 1, 2015. Your children were subsequently enrolled in a CHP plan.

On January 12, 2016, NYSOH issued a notice 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 February 15, 2016 or your children might lose the financial assistance they were 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 children were not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also

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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 completed your children's renewal within the required time frame. Your children's eligibility ended February 29, 2016.

On April 1, 2016, NYSOH received your children's updated application for health insurance.

On April 2, 2016, NYSOH issued a notice of eligibility determination, based on your April 1, 2016 application, stating that your children were eligible to enroll in CHP with a \$9.00 monthly premium each, effective May 1, 2016.

Also on April 2, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 1, 2016, stating that your children were enrolled in a CHP plan and that coverage would start on May 1, 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 April 1, 2016.

On October 11, 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 that you receive all of your notices from NYSOH be electronic mail; however, you further testified switched your election to receiving notices by regular mail when you requested to appeal your determination.
- 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 by February 15, 2016 in order to renew your children's coverage.
- 3) You testified that you realized you needed to update your children's application for health insurance on April 1, 2016 when you children's doctor informed you that they were no longer coverage under their CHP plan.
- 4) The record reflects that on April 1, 2016, NYSOH received your children's updated application for health insurance.

- 5) You testified that you are seeking that your children be enrolled in their CHP plan as of April 1, 2016, since you incurred approximately \$160.00 in out-of-pocket costs associated with their medical card during April 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

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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).

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents needed to verify eligibility. Children 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).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible

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for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH's request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

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 disenrolled from their CHP plan effective February 29, 2016 and were not re-enrolled until May 1, 2016, resulting in a gap in coverage during the months of March and April 2016.

Your children were originally found eligible for CHP and enrolled effective March 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 12, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by February 15, 2016, or their financial assistance might end.

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 an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account on behalf of your children. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your children's application.

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

The record indicates that your children were then disenrolled from their CHP plan because you did not respond to the renewal notice. Your children's eligibility and enrollment subsequently ended on February 29, 2016.

However, under the presumptive eligibility rule, your children should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning March 1, 2016. This is because when a child or children are being automatically recertified for CHP, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation.

Since the end date of the previous 12 month policy period of your children's eligibility for and enrollment in CHP February 29, 2016, your children should have been determined presumptively eligible from March 1, 2016 through April 30, 2016 so as to avoid a gap in their CHP coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

Therefore, February 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in CHP for two months pending your completion of their recertification.

The April 2, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their CHP plan was effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their CHP for the months of March and April 2016.

Decision

February 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in CHP for two months pending your completion of their recertification.

The April 2, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their CHP plan was effective as of March 1, 2016

Your case is RETURNED to NYSOH to reinstate your children in their CHP for the months of March and April 2016.

Effective Date of this Decision: October 17, 2016

How this Decision Affects Your Eligibility

Your children should have been given two months of Child Health Plus presumptive eligibility effective March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the months of March and 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 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
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Summary

February 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in CHP for two months pending your completion of their recertification.

The April 2, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their CHP plan was effective as of March 1, 2016

Your case is RETURNED to NYSOH to reinstate your children in their CHP for the months of March and April 2016.

Your children should have been given two months of Child Health Plus presumptive eligibility effective March 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the months of March and April 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

