



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: AP000000008634

[REDACTED]

Dear [REDACTED],

On October 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 5, 2016 eligibility determination 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 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 § 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: AP000000008634



Issue

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

Did NY State of Health properly determine that your children's eligibility for and enrollment in their Child Health Plus plan was effective May 1, 2016?

Procedural History

On February 13, 2015, NY State of Health (NYSOH) issued a notice of renewal stating in relevant part that your children were eligible for Child Health Plus and were re-enrolled in their Child Health Plus plan effective April 1, 2015.

On February 9, 2016, NYSOH issued a notice stating in part that it was time to renew your children's health insurance for the next yearly coverage period. The notice stated in relevant part that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help in paying for their health coverage, and that you needed to update your account by March 15, 2016 or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by March 15, 2016.

On March 16, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, Essential Plan or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance and could not enroll in a qualified health plan at full cost. This was

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because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your children's then current eligibility was to end effective March 31, 2016.

On March 17, 2016, NYSOH issued a disenrollment notice stating that your children's Child Health Plus coverage would end March 31, 2016.

On April 4, 2016, NYSOH received your children's updated application for health insurance and issued a preliminary eligibility determination stating that your children were eligible for Child Health Plus with a \$9.00 monthly premium for each child. Also on that date, you selected a Child Health Plus plan for your children.

Also on April 4, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin April 1, 2016.

On April 5, 2016, NYSOH issued a notice of eligibility redetermination, based on your April 4, 2016 application, stating, in relevant part, that your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium for each child, effective May 1, 2016.

Also on April 5, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 4, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on May 1, 2016.

On October 12, 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 in previous years you received all your notices by regular mail. You testified that NYSOH changed the manner they sent you notices to paperless without your permission and you did not know they were sending you electronic notices. The record reflects that you are presently set up to receive electronic notices.
- 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 children's coverage.

- 3) You testified that you did not know that you needed to update your account until you went to the pharmacy to re-fill one of your children's prescription and was told that their insurance plan was no longer in effect.
- 4) The record reflects that on April 4, 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 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

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)).

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“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 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’s enrollment in their Child Health Plus plan was effective May 1, 2016.

Your children were originally found eligible for Child Health Plus effective March 1, 2014. Your children were re-enrolled in their Child Health Plus plan on February 9, 2015, effective April 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is 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 February 9, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by March 15, 2016, or any such financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their Child Health Plus plan, effective March 31, 2016.

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However, you testified and the record reflects that your NYSOH account was set to send you alerts regarding notices electronically. You credibly testified that you had originally set up your account to receive notices by regular mail. You testified that you never changed your account to receive notices by electronic alert. You testified that someone at NYSOH changed how you receive notices to electronic alerts without your permission. You credibly testified that you did not receive an electronic alert regarding the February 9, 2016 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.

You first renewed your children's eligibility for financial assistance through NYSOH for the new coverage year on April 4, 2016 and 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.

Therefore, the April 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective April 1, 2016, your children were eligible to enroll in Child Health Plus with a \$27.00 premium per month; and the April 5, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective April 1, 2016.

Decision

The April 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective April 1, 2016, your children are eligible to enroll in Child Health Plus with a \$27.00 premium per month.

The April 5, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective April 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above.

Effective Date of this Decision: October 17, 2016

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in their Child Health Plus plan should have been effective as of April 1, 2016.

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Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of April 1, 2016.

Once your children have been reinstated, it will be your responsibility to pay the April 2016 premium of \$27.00.

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 April 5, 2016 notice of eligibility redetermination is MODIFIED to state that, effective April 1, 2016, your children are eligible to enroll in Child Health Plus with a \$9.00 premium per month each.

The April 5, 2016 notice of enrollment confirmation is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective April 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan as of April 1, 2016.

Once your children have been reinstated, it will be your responsibility to pay the April 2016 premium of \$27.00.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

