



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

Notice of Decision

Decision Date: October 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008752

[REDACTED]

Dear [REDACTED]

On October 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 15, 2016 disenrollment 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: October 20, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008752

[REDACTED]

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 enrollment in Child Health Plus terminated effective March 31, 2016?

Procedural History

On November 16, 2015, NYSOH issued a notice that it was time to renew your children's health insurance for 2016. That notice stated that your children were automatically re-enrolled in their current health plan for another year. That notice also stated, if anything has changed in your life that would affect how your children were covered and what you pay for your children's health insurance, to update your account between November 15, 2015 and December 15, 2015.

On November 27, 2016, you updated your NYSOH account and attested to an increase in your earnings.

On December 4, 2015, NYSOH issued a notice of eligibility determination, based on your November 27, 2015 updated application, stating that your children were conditionally eligible for Child Health Plus effective January 1, 2016. That notice stated your children's eligibility was conditioned upon you providing proof of income before January 26, 2016.

On December 16, 2015, NYSOH issued a notice that stated that although you submitted income documentation, additional proof of income was required for NYSOH to confirm the accuracy of your attested income.

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Also on December 16, 2015, NYSOH issued a notice of eligibility determination stating that your children were conditionally eligible for Child Health Plus effective January 1, 2016. That notice stated you must provide proof of income before February 13, 2016.

On March 15, 2016, NYSOH issued a disenrollment notice stating that, effective March 31, 2016, your children would be terminated from their Child Health Plus plan because they were no longer eligible to remain enrolled in their current health insurance. This was because you had not provided additional income documentation within the required time frame.

On April 7, 2016, NYSOH received your children's updated application for health insurance and prepared a preliminary eligibility determination finding your children eligible for Child Health Plus, effective May 1, 2016.

Also on April 7, 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 8, 2016, NYSOH issued a notice of eligibility determination, based on your April 7, 2016 application, stating that your children were conditionally eligible to enroll in Child Health Plus with a \$15.00 monthly premium each, effective May 1, 2016.

Also on April 8, 2016, NYSOH issued an enrollment confirmation notice, based on your plan selection on April 7, 2016, stating that your children were enrolled in a Child Health Plus plan and 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 you are only appealing your children's disenrollment from their Child Health Plus plan for the month of April 2016.
- 2) You testified that, with regard to your children's November 27, 2016 account update, you received a "pop up" on your screen requesting you to send in proof of income.

- 3) You testified and your NYSOH account shows that you did submit proof of income on December 9, 2015 by uploading a letter from your employer (see Document [REDACTED]). According to your NYSOH account, this document was invalidated by NYSOH.
- 4) You testified that you did not receive the additional notices from NYSOH that your income proof was invalidated by NYSOH and that you needed to supply any additional income documentation.
- 5) Your NYSOH account shows that, on April 7, 2016, NYSOH received your children's updated application for health insurance and you submitted additional income proof on April 12, 2016 (see Documents [REDACTED]).
- 6) You testified you had prescription bills in the month of April 2016 for your children.

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

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child’s parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children’s enrollment in Child Health Plus terminated 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.

Although your children were automatically renewed and found eligible for Child Health Plus and enrolled effective January 1, 2016, you updated your children’s account on November 27, 2015.

On December 4, 2015, NYSOH's issued an eligibility determination notice, based on your November 27, 2015 updated application, stating that your children were conditionally eligible for Child Health Plus, and that you needed to supply additional income information before January 26, 2016.

On December 9, 2015, you uploaded proof of income to your account (see Document [REDACTED]). That income was invalidated and two notices were sent out on December 16, 2015 requesting additional proof of income before February 13, 2016.

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You testified you did not receive the December 16, 2015 notices from NYSOH. According to your NYSOH account, there is no record that you submitted any additional proof of income prior to or on February 13, 2016.

On March 15, 2016, NYSOH issued a disenrollment notice stating that your children were terminated from their Child Health Plus plan, effective March 31, 2016.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your children from their Child Health Plus plan was dated March 15, 2016. Therefore, adding five days for mailing, the notice terminating your child's enrollment would be considered received as of March 20, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the second following month. Since you would have received NYSOH's notice terminating your children's Child Health Plus eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until May 1, 2016.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your children for the month of April 2016. For this reason, the March 15, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children's enrollment in their Child Health Plus plan for the month of April 2016.

Decision

The March 15, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children's enrollment into their Child Health Plus plan for the month of April 2016.

Effective Date of this Decision: October 20, 2016

How this Decision Affects Your Eligibility

NYSOH did not provide you with timely notice to prevent a gap in coverage in April 2016. Therefore, your children should not have been terminated from their Child Health Plus plan on March 31, 2016 for failure to submit proof of income.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of April 2016.

You will be responsible for the children's premiums 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 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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P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The March 15, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children's enrollment into their Child Health Plus plan for the month of April 2016.

NYSOH did not provide you with timely notice to prevent a gap in coverage in April 2016. Therefore, your children should not have been terminated from their Child Health Plus plan on March 31, 2016 for failure to submit proof of income.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of April 2016.

You will be responsible for the children's premiums for the month of 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:

