



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

Notice of Decision

Decision Date: November 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008913



Dear [REDACTED]

On October 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 7, 2016 eligibility determination and April 9, 2016 enrollment notices.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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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Decision

Decision Date: November 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008913



Issue

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

Did NY State of Health (NYSOH) properly determine that your child was eligible for Child Health Plus and enrolled in a Child Health Plus plan effective May 1, 2016?

Procedural History

On February 8, 2016, NY State of Health (NYSOH) issued a renewal notice that based on federal and state data sources, a decision about whether or not your child was eligible for financial assistance on renewal could not be made and that you needed to update the information on your NYSOH account before March 15, 2016, so their financial assistance would not end.

On March 5, 2016, your NYSOH account was updated.

On March 6, 2016, NYSOH issued a letter informing you that your application for health insurance, dated March 5, 2016, had been reviewed and your child may be eligible for health insurance but more information was needed to make a determination. The notice informed you that the income information you provided did not match information obtained from state and federal data sources and, in order for a determination to be made as to your child's eligibility, you needed to submit income documentation for your household by March 21, 2016, to confirm their eligibility.

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Also on March 6, 2016, NYSOH issued a disenrollment notice confirming that your child's coverage in their Child Health Plus plan, Fidelis Care, would end March 31, 2016.

On March 14, 2016, additional income documentation was uploaded to your NYSOH account ([REDACTED]).

On March 21, 2016, NYSOH deemed the documentation uploaded to your account on March 14, 2016 to be invalid because it did not provide proof of both your employers and your domestic partner's income.

Also on March 21, 2016, NYSOH issued a notice informing you that the income documents you submitted were insufficient to resolve the inconsistency of your household's income. You were instructed to submit additional proof of your household's income.

On March 30, 2016, additional income documentation was uploaded to your NYSOH account ([REDACTED]).

On April 7, 2016, NYSOH issued an eligibility redetermination notice that stated your child was eligible to enroll in Child Health Plus for a cost of \$9.00 per month, effective May 1, 2016.

On April 9, 2016, NYSOH issued an enrollment notice confirming that your child was enrolled in a Child Health Plus plan, effective May 1, 2016.

On April 15, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your child being found eligible for Child Health Plus and enrolled in a Child Health Plus plan, effective May 1, 2016.

On October 25, 2016, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You stated that you did not receive a Notice of Telephone Hearing was not prepared to proceed with the hearing at that time. Your hearing was adjourned until October 28, 2016, at 1:00 pm.

On October 28, 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) According to your NYSOH account and your testimony, you are appealing your child's Child Health Plus eligibility and enrollment state dates.
- 2) According to your NYSOH account, your child was enrolled in a Child Health Plus plan, Fidelis Care, from April 1, 2015 to March 31, 2016 through NYSOH.
- 3) On February 8, 2016, NYSOH issued a renewal notice that in part stated, based on federal and state data sources, a decision about whether or not your child was eligible for financial assistance on renewal could not be made and that you needed to update the information on your NYSOH account before March 15, 2016, so their financial assistance would not end.
- 4) According to your NYSOH account, on March 14, 2016, you uploaded a separation letter from [REDACTED] and two biweekly paystubs from [REDACTED] ([REDACTED]).
- 5) According to your NYSOH account, on March 21, 2016, your March 14, 2016 documentation was deemed invalid by NYSOH because you did not provide income documentation for your employment with [REDACTED] and did not submit income documentation for your domestic partner.
- 6) On March 30, 2016 you uploaded to your NYSOH account: (1) an additional biweekly paystub from [REDACTED]; (2) two weekly paystubs from [REDACTED]; (3) a one-page explanation of your and your domestic partner's income; (4) four biweekly earnings statements for your domestic partner's employment ([REDACTED]).
- 7) On April 6, 2016, your child's eligibility was redetermined and they were found eligible to enroll in Child Health Plus, effective May 1, 2016, as stated in the April 7, 2016 eligibility redetermination notice.
- 8) Your child was re-enrolled in a Child Health Plus plan with a plan enrollment start date of May 1, 2016.
- 9) You testified that you want your child to be enrolled in a Child Health Plus for April 2016 because you are concerned you may be liable for a tax penalty when filing your 2016 federal income tax return.

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

Applicable Law and Regulations

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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 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was eligible for Child Health Plus and enrolled in Child Health Plus plan effective May 1, 2016.

The record reflects that your child was enrolled in a Child Health Plus plan from April 1, 2015 through March 31, 2016.

Generally, NYSOH must redetermine qualified children's eligibility for Child Health Plus once every 12 months without requiring information for the individuals, if it is able to do so based on reliable information contained in the their account or other more current information available to the agency. NYSOH's February 8, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by March 15, 2016, or their financial assistance might end.

The record reflects that your NYSOH account was updated on March 5, 2016. The following day NYSOH issued a notice informing you that more information was needed to make a determination and that you needed to submit income documentation for your household by March 21, 2016, to confirm eligibility.

On March 14, 2016, additional income documentation was uploaded to your NYSOH account. However, on March 21, 2016, NYSOH deemed the documentation uploaded to your account on March 14, 2016 to be invalid because it did not provide income documentation for both your employers and any for your domestic partner.

The record indicates that your child was disenrolled from their Child Health Plus plan because you did not provide sufficient income documentation to verify your household's income within the requisite time period. Your child's eligibility and enrollment subsequently ended on March 31, 2016.

On March 30, 2016, you uploaded additional income documentation to your NYSOH account. Based on that documentation, on April 7, 2016, NYSOH issued an eligibility redetermination notice that stated your child was eligible to enroll in Child Health Plus for a cost of \$9.00 per month, effective May 1, 2016.

Generally, when a child or children are being recertified for Child Health Plus, 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 a 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; in your case, income documentation. Your child's 12 months of eligibility for Child Health Plus was due to end on March 31, 2016, and NYSOH determined that there was insufficient or inconsistent income information and disenrolled your child from

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their Child Health Plus plan as of March 31, 2016, resulting in a gap in coverage during April 2016.

Since the end date of the previous 12 month policy period of your children's eligibility for and enrollment in Child Health Plus was March 31, 2016, your children should have been determined presumptively eligible from April 1, 2016 through May 31, 2016.

The record reflects that you provided the necessary documentation to verify your child's eligibility within the two month period of presumptive eligibility from April 1, 2016 to May 31, 2016.

Therefore, the April 7, 2016 eligibility determination notice is MODIFIED to state that your child was eligible to enroll in Child Health Plus, effective as of April 1, 2016.

The April 9, 2016 enrollment notice is MODIFIED to state that your child's enrollment in their Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in their Child Health Plus for the month of April 2016.

Decision

The April 7, 2016 eligibility determination notice is MODIFIED to state that your child was eligible to enroll in Child Health Plus, effective as of April 1, 2016.

The April 9, 2016 enrollment notice is MODIFIED to state that your child's enrollment in their Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in their Child Health Plus for the month of April 2016.

Effective Date of this Decision: November 21, 2016

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to reinstate your child's coverage in their Child Health Plus plan for the month of April 2016.

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You may be responsible for the health insurance premium 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 date 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 date 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 April 7, 2016 eligibility determination notice is MODIFIED to state that your child was eligible to enroll in Child Health Plus, effective as of April 1, 2016.

The April 9, 2016 enrollment notice is MODIFIED to state that your child's enrollment in their Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in their Child Health Plus for the month of April 2016.

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

Your case is being sent back to NYSOH to reinstate your child's coverage in their Child Health Plus plan for the month of April 2016.

You may be responsible for the health insurance premium for the month of April 2016.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

