



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

Notice of Decision

Decision Date: November 10, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008916

[REDACTED]

Dear [REDACTED]

On October 25, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's April 16, 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 (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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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that your oldest child (HX0002374052) was no longer eligible to remain enrolled in your family's qualified health plan because he was over the age of 25?

Did NYSOH properly deny you, your spouse, and your youngest two children the ability to select a plan outside of the open enrollment period for 2016?

Procedural History

On October 29, 2015, NYSOH issued a renewal notice stating that you, your spouse, and your three children had been auto-renewed and enrolled into a full cost Qualified Health Plan effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming your, your spouse's, and your three children's enrollment in a full cost Qualified Health Plan, family plan, effective January 1, 2016.

On April 15, 2016, NYSOH issued an eligibility redetermination notice which found that you, your spouse, and your three children were eligible to enroll in a full cost Qualified Health Plan, effective May 1, 2016. It further stated that neither you, your spouse, nor your three children qualified to select a health plan outside of the open enrollment period for 2016.

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On April 15, 2016, you spoke to NYSOH's Account Review Unit and appealed the denial of a special enrollment period for yourself, your spouse, and your three children.

On April 21, 2016, NYSOH issued a disenrollment notice stating that your oldest child was no longer eligible to remain enrolled in your Qualified Health Plan because the plan selected was only available to dependents who are 25 years of age or younger. Your son's coverage ended effective May 31, 2016.

Also on April 21, 2016, NYSOH issued an eligibility determination notice which found that you, your spouse, and each of your three children qualified to select a plan outside of the open enrollment period for 2016, and were each granted a special enrollment period until July 30, 2016.

On October 25, 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 want your oldest child ([REDACTED]) to be able to be on a plan with the rest of your household.
- 2) You testified, and your NYSOH application confirms, that your oldest child turned [REDACTED] on [REDACTED].
- 3) You testified that your oldest child is currently a full-time student.
- 4) You testified that your oldest child's current primary residence is with you.
- 5) You testified that you expect to claim your oldest child as a dependent on your 2016 tax return.
- 6) You testified that following your oldest child's disenrollment from your family plan you contacted your plan and were advised that opting into a plan with an age 29 rider could only be done during open enrollment or your entire family would need a special enrollment period.
- 7) You testified that NYSOH advised you that your oldest son was granted a special enrollment period only for his own personal coverage, and that the rest of your family was not granted a special enrollment period.

- 8) You testified that you are seeking a special enrollment period for your entire family to be able to have your oldest child on the same plan as the rest of your family, under a plan with an age 29 rider.
- 9) You testified that your son was able to obtain coverage outside of your account under a full cost qualified health plan, for which, you have been paying the premiums.
- 10) The record indicates that your oldest child is no longer listed on your NYSOH account.

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

Applicable Law and Regulations

Redetermination During a Benefit Year

NYSOH is required to periodically examine available data sources to identify any possible changes that may affect an individual's eligibility. If NYSOH identifies updated information they must redetermine an individual's eligibility and must provide timely written notice of their eligibility determination (45 CFR § 155.330(e) 45 CFR § 155.310 (g)).

Young Adults Coverage Up To Age 26 on Parents' Plan

Plans and issuers that offer dependent child coverage are required to make that coverage available until the dependent reaches the age of 26 (45 CFR § 147.120(a)(1)). Once a dependent child reaches age 26 and "ages out" of his or her parents' coverage, they may have several options, including enrolling in an individual plan by themselves through NYSOH or under a family plan with an age 29 rider (NY Ins. Law §3216(a)(4)(C)).

Special Enrollment Periods

NYSOH must provide annual open enrollment periods during which time qualified individuals may enroll in a qualified health plan (QHP) and enrollees may change QHPs (45 CFR § 155.410(a)).

After each open enrollment period ends, NYSOH provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP, and an enrollee may change their enrollment to another plan. This is generally permitted when one of the following triggering events occur:

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- (1) The qualified individual or his or her dependent involuntarily loses certain health insurance coverage:
 - (a) Health insurance considered to be minimum essential coverage;
 - (b) Enrolled in any non-calendar year health insurance policy, even if they have the option to renew the expiring non-calendar year individual health insurance policy; or
 - (c) Pregnancy-related coverage; or
 - (d) Medically needy coverage.
- (2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care; or
- (3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status; or
- (4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange; or a non-Exchange entity providing enrollment assistance or conducting enrollment activities; or
- (5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee; or
- (6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or has a change in eligibility for cost-sharing reductions; or
- (7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move; or
- (8) The qualified individual is an Indian, as defined by section 4 of the Indian Health Care Improvement Act, and may enroll in a QHP or change from one QHP to another one time per month; or
- (9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that

the individual meets other exceptional circumstances as the Exchange may provide;

(45 CFR § 155.420(d)).

Generally, if a triggering life event occurs, the qualified individual or enrollee has 60 days from the date of a triggering event to select a QHP (45 CFR § 155.420(c)(1)). When an individual loses health insurance coverage, NYSOH must ensure that their coverage effective date is on the first day of the month following the loss of coverage (45 CFR § 155.420 (b)(2)(iv)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your oldest child was no longer eligible to enroll in your family's qualified health plan because he was over the age of 25.

NYSOH is required to periodically review whether individuals are eligible to remain enrolled in their current coverage through NYSOH. Health plans and issuers that offer dependent children coverage are required to include eligible children in their parent's family coverage until the dependent child reaches the age of 26 years old.

You testified that your oldest child is currently a full-time student, his primary residence is with you, and that he turned [REDACTED] on [REDACTED]. You further testified that you expect to claim your oldest child as a dependent on your 2016 tax return.

Since your oldest child turned [REDACTED] on [REDACTED], NYSOH properly issued a disenrollment notice stating that your oldest child was no longer eligible to remain enrolled in your family's qualified health plan because the plan selected was only available to dependents who are 25 years or younger.

Therefore, the April 21, 2016 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly denied you, your spouse, and your youngest two children the ability to select a plan outside of the open enrollment period for 2016.

NYSOH provided an open enrollment period from November 1, 2015 until January 31, 2016. Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in, or change to another health plan offered in NYSOH. In order to qualify for a special enrollment period, a person must experience a triggering event.

In the April 21, 2016 eligibility determination notice, NYSOH found you, your spouse, and each of your three children eligible for a special enrollment period through July 30, 2016.

Therefore, NYSOH should have permitted you, your spouse, and your children to select a health plan outside of the open enrollment period for 2016.

The April 21, 2016 eligibility determination notice granting you, your spouse, and your three children a special enrollment period is AFFIRMED and NYSOH should have honored the information contained in that notice granting your entire family a special enrollment period.

The matter is RETURNED to NYSOH to reopen the special enrollment period given to you, your spouse, and your three children in the April 21, 2016 notice. NYSOH is directed to assist you, your spouse, and your three children in enrollment in a qualified health plan as of June 1, 2016 or from a later date of your choosing.

Decision

The April 21, 2016 disenrollment notice is AFFIRMED.

The April 21, 2016 eligibility determination notice granting you, your spouse, and your three children a special enrollment period as of June 1, 2016 is AFFIRMED and NYSOH should have honored the information contained in that notice granting your entire family a special enrollment period.

The matter is RETURNED to NYSOH to reopen the special enrollment period given to you, your spouse, and your three children in the April 21, 2016 notice. NYSOH is directed to assist you, your spouse, and your three children in enrollment in a qualified health plan as of June 1, 2016 or from a later date of your choosing.

Effective Date of this Decision: November 10, 2016

How this Decision Affects Your Eligibility

Your oldest child () was properly disenrolled from your family's health plan because he was over the allowable age limit.

You, your spouse, and your three children have been granted a special enrollment period to allow you the opportunity to reenroll into health coverage effective June 1, 2016 or at a later date of your choosing, as the April 21, 2016

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eligibility determination notice granted you, your spouse, and your three children a special enrollment period.

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

Summary

The April 21, 2016 disenrollment notice is **AFFIRMED**.

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Your oldest child ([REDACTED]) was properly disenrolled from your family's health plan because he was over the allowable age limit.

The April 21, 2016 eligibility determination notice granting you, your spouse, and your three children a special enrollment period as of June 1, 2016 is AFFIRMED and NYSOH should have honored the information contained in that notice granting your entire family a special enrollment period.

You, your spouse, and your three children have been granted a special enrollment period to allow you the opportunity to reenroll into health coverage effective June 1, 2016 or at a later date of your choosing, as the April 21, 2016 eligibility determination notice granted you, your spouse, and your three children a special enrollment period.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

