



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

Notice of Decision

Decision Date: November 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008948

[REDACTED]

Dear [REDACTED]

On October 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 17, 2016 eligibility determination and the April 19, 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.

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 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008948



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 son was disenrolled from his Child Health Plus (CHP) plan effective April 30, 2016, and was not re-enrolled until June 1, 2016, resulting in a gap in coverage during the month of May 2016?

Procedural History

On March 25, 2015, NYSOH issued a notice of eligibility determination, based on your March 24, 2015 application, stating that your son was eligible for CHP, effective May 1, 2015. Your son was subsequently enrolled in a CHP plan.

On March 12, 2016, NYSOH issued a notice that it was time to renew your son'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 son would qualify for financial help paying for his health coverage, and that you needed to update your account by April 15, 2016, or your son might lose the financial assistance he was currently receiving.

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

On April 17, 2016, NYSOH issued an eligibility determination notice stating that your son was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your son also could not enroll in a qualified health plan at full cost. This was because you had not

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responded to the renewal notice and had not completed your son's renewal within the required time frame. Your son's eligibility ended April 30, 2016.

On April 18, 2016, NYSOH received your son's updated application for health insurance. That same day, NYSOH prepared a preliminary eligibility determination stating that your son was eligible to enroll in CHP at a monthly cost of \$60.00, effective June 1, 2016.

Also on April 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your son's CHP plan insofar as it did not begin May 1, 2016.

On April 19, 2016, NYSOH issued a notice of eligibility determination, based on your April 18, 2016 application, stating that your son was eligible to enroll in CHP with a \$60.00 monthly premium, effective June 1, 2016.

Also on April 19, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 18, 2016, stating that your son was enrolled in a CHP plan and that coverage would start on June 1, 2016.

On October 26, 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) The record reflects, that you are currently enrolled to receive notices from NYSOH via regular mail.
- 2) NYSOH's records indicate that your contact preferences were changed from electronic alerts to regular mail by a NYSOH representative on April 18, 2016 (Incident # [REDACTED]).
- 3) You testified that you were not aware that you were signed up to only receive email alerts from NYSOH, and that, when you found out, you changed your contact preference to regular mail.
- 4) You testified that you believe the email address that was on file with NYSOH was [REDACTED], and that you checked that email account regularly.
- 5) You testified that you did not receive an email alert regarding the renewal notice, nor did you receive the notice by regular mail.

- 6) You testified that you were not expecting your son's renewal to be occurring in March, as you thought you had enrolled him sometime around September.
- 7) You testified that you believe you logged into your NYSOH account at some point and saw the renewal notice from March 2016, but that it was too late to do anything about it at that point.
- 8) You testified that you realized you needed to update your son's application for health insurance in April or early May, and that it was too late at that point to get him enrolled in coverage for May 2016.
- 9) You testified that you re-enrolled your son into his CHP plan as soon as you discovered his coverage was being cancelled.
- 10) The record reflects that on April 18, 2016, NYSOH received your son's updated application for health insurance.
- 11) You testified that your son received medical services in May 2016, and that you have been paying the bills out of pocket.
- 12) You testified that you are seeking that your son be enrolled in his CHP plan as of May 1, 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 CHP 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

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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 CHP 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 CHP 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 CHP (NY Public Health Law § 2511(2)(j)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your son was disenrolled from his CHP plan, effective April 30, 2016 and was not re-enrolled until June 1, 2016, resulting in a gap in coverage during the month of May 2016.

Your son was originally found eligible for CHP and enrolled effective May 1, 2015.

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Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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 March 12, 2016 renewal notice stated that there was not enough information to determine whether your son was eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by April 15, 2016, or his financial assistance might end.

The record reflects that you previously 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. There is no evidence in your account documenting that any email alert was sent to you regarding the renewal notice or the need to renew your application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account. As a result you did not submit an updated application prior to April 15, 2016. The record indicates that your son was then disenrolled from his CHP plan because you did not respond to the renewal notice. Your son's eligibility and enrollment subsequently ended on April 30, 2016.

Moreover, under the presumptive eligibility rule, your son should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning May 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 son's eligibility for and enrollment in CHP was April 30, 2016, your son should have been determined presumptively eligible from May 1, 2016 through June 30, 2016 so as to avoid a gap in his CHP coverage for the upcoming policy period, and to allow you to submit sufficient information to have his eligibility determined.

Therefore, the April 17, 2016 eligibility determination notice is MODIFIED to state that your son was presumptively eligible to remain in CHP for two months, pending your completion of his recertification.

The April 19, 2016 enrollment confirmation notice is MODIFIED to state that your son's enrollment in his CHP plan was effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your son in his CHP plan for the month of May 2016.

Decision

The April 17, 2016 eligibility determination notice is MODIFIED to state that your son was presumptively eligible to remain in CHP for two months, pending your completion of his recertification.

The April 19, 2016 enrollment confirmation notice is MODIFIED to state that your son's enrollment in his CHP plan was effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your son in his CHP plan for the month of May 2016.

Effective Date of this Decision: November 7, 2016

How this Decision Affects Your Eligibility

Your son should have been given two months of CHP presumptive eligibility effective May 1, 2016.

Your case is being sent back to NYSOH to reinstate your son into his CHP plan for the month of May 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)).

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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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The April 17, 2016 eligibility determination notice is MODIFIED to state that your son was presumptively eligible to remain in CHP for two months, pending your completion of his recertification.

The April 19, 2016 enrollment confirmation notice is MODIFIED to state that your son's enrollment in his CHP plan was effective as of May 1, 2016.

Your case is RETURNED to NYSOH to reinstate your son in his CHP plan for the month of May 2016.

Your son should have been given two months of CHP presumptive eligibility effective May 1, 2016.

Your case is being sent back to NYSOH to reinstate your son into his CHP plan for the month of May 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

