



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: AP000000009208

[REDACTED]

Dear [REDACTED]

On November 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 22, 2016 eligibility determination and enrollment confirmation notices, May 4, 2016 cancellation notice, and June 24, 2016 eligibility determination and enrollment confirmation 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 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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Issues

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

Did the NY State of Health (NYSOH) properly determine that your two oldest children's enrollment in their Child Health Plus plan was effective June 1, 2016?

Did NYSOH properly cancel your two oldest children's Child Health Plus plan for non-payment of premium effective June 1, 2016?

Did NYSOH properly determine your three children's enrollment in the Child Health Plus plan was effective August 1, 2016?

Procedural History

On April 21, 2016, your NYSOH Account was updated to indicate that your three children needed health insurance and an application was submitted on their behalf.

On April 22, 2016, NYSOH issued a notice of eligibility determination, based on your April 21, 2016, application, stating that your two oldest children eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective June 1, 2016. The notice further stated your youngest child did not qualify for Child Health Plus because federal and state data sources were showing that he was already enrolled in Medicaid.

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Also on April 22, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 21, 2016, stating that your two oldest children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start June 1, 2016.

On April 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your two oldest children's Child Health Plus plan insofar as it did not begin May 1, 2016.

On May 4, 2016, a cancellation notice was issued terminating your two oldest children's Child Health Plus plan effective June 1, 2016 because a premium payment was not received.

On June 24, 2016, NYSOH received your updated application for financial assistance. An eligibility determination notice was issued on June 24, 2016, based on your updated application finding your three children eligible for Child Health Plus with a premium responsibility of \$9.00 per month each effective August 1, 2016.

Also on June 24, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 21, 2016, stating that your three children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start June 1, 2016.

On November 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During your hearing you testified you were now appealing the gap in coverage for your son for the month of July, 2016, and your two older children. 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) You testified that you are appealing only your children's eligibility.
- 2) You submitted your children's initial application to NYSOH for financial assistance on April 21, 2016.
- 3) You testified, and the record reflects, that you enrolled your two older children into a Child Health Plus plan on April 21, 2016.
- 4) You testified your children were previously covered under Medicaid from your Local Department of Social Services (LDSS) for 2015. You were not sure when their coverage ended.

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- 5) You testified that you were not made aware by your LDSS that your children's coverage would be ending.
- 6) The record reflects your two older children were disenrolled for non-payment of premium effective June 1, 2016.
- 7) You testified you made your first month's premium payment for your two oldest children for June 1, 2016, but you were told by NYSOH representatives that there was a problem with it showing as paid by your health plan.
- 8) The record reflects the first time you enrolled your youngest child in a Child Health Plus plan was June 23, 2016, for an August 1, 2016 start date.
- 9) You testified that you need your youngest child's Child Health Plus plan to begin on July 1, 2016, because there was medical costs for a physician's visit in July, 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 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" (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

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month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your two oldest children's enrollment in their Child Health Plus plan was effective June 1, 2016.

On April 21, 2016 your NYSOH Account was updated to indicate that your three children needed health insurance and an application was submitted on their behalf. As a result of that application both were found eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective June 1, 2016. You subsequently enrolled them in a Child Health Plus plan that day.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Because your application was completed on April 21, 2016, and enrollment was submitted on that day, your children's Child Health Plus plan would take effect on the first day of the second following month, which is June 1, 2016.

You explained during your telephone hearing that all of your children had coverage under Medicaid through the local County Department of Social Services, but you were not sure when it had ended.

It is not within the authority of the NYSOH Appeals Unit to review notices or the proper issuance of notices from local agencies administering benefits under Non-MAGI based Medicaid.

Therefore, the April 22, 2016 eligibility determination notice finding your two oldest children eligible for Child Health Plus, and enrollment confirmation notice stating that their enrollment in his Child Health Plus plan was effective June 1, 2016, was proper and are AFFIRMED.

The second issue is whether NYSOH properly cancelled your two oldest children's Child Health Plus plan for non-payment of premium effective June 1, 2016.

On May 4, 2016, a cancellation notice was issued terminating your two oldest children's Child Health Plus plan effective June 1, 2016 because a premium payment was not received.

You testified you made your first month's premium payment for your two oldest children for June 1, 2016, but you were told by NYSOH representatives that there was a problem with it showing as paid by your health plan.

This is an issue that the NYSOH Appeals Unit is not authorized to address. Therefore, we are DISMISSING your appeal on the basis of termination from your two oldest children's Child Health Plus plan for non-payment of premium effective June 1, 2016.

The third issued under review is whether NYSOH properly determined that your three children's enrollment in their Child Health Plus plan was effective August 1, 2016.

After you children's disenrollment, the record shows you updated your application and enrolled all three of your children in a Child Health Plus plan on June 23, 2016.

As stated above, the date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the June 24, 2016, eligibility determination notice and enrollment confirmation notice stating that your three children's enrollment in their Child Health Plus plan was effective August 1, 2016, are correct and must be AFFIRMED.

Decision

The April 22, 2016, eligibility determination and enrollment confirmation notices are AFFIRMED.

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Your appeal of the May 4, 2016, disenrollment notice for non-payment of premium is DISMISSED.

The June 24, 2016, eligibility determination and enrolment confirmation notices are AFFIRMED.

Effective Date of this Decision: November 7, 2016

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plan is August 1, 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

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- By mail at:
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Summary

The April 22, 2016, eligibility determination and enrollment confirmation notices are AFFIRMED.

Your appeal of the May 4, 2016, disenrollment notice for non-payment of premium is DISMISSED.

The June 24, 2016, eligibility determination and enrolment confirmation notices are AFFIRMED.

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plan is August 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

