



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: AP000000009235

[REDACTED]

Dear [REDACTED]

On October 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 15, 2016 eligibility determination and disenrollment 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 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: November 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009235

[REDACTED]

Issue

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

Did New York State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in a Child Health Plus (CHP) plan ended effective April 30, 2016?

Procedural History

On December 10, 2015, your NYSOH account was updated.

On December 11, 2015, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a monthly premium of \$45.00, effective January 1, 2016.

Also on December 11, 2015, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in a CHP plan, effective January 1, 2016.

On April 15, 2016, NYSOH issued a notice of eligibility determination stating that your child was not qualified to enroll in coverage through NYSOH because mail that had been sent to the address in your account was returned to NYSOH as undeliverable. Your child's eligibility ended on April 30, 2016.

Also on April 15, 2016, NYSOH issued a disenrollment notice, stating that your child's enrollment in his CHP plan was ending on April 30, 2016 because he was no longer eligible to enroll in coverage through NYSOH.

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On April 19, 2016, your NYSOH account was updated.

On April 20, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a monthly premium of \$60.00, effective June 1, 2016.

Also on April 20, 2016, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a CHP plan, beginning June 1, 2016.

On April 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the April 15, 2016 eligibility determination and disenrollment notices insofar as they ended your child's eligibility for and enrollment in CHP for the month of May 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 your account was updated on December 10, 2015 by someone with the username [REDACTED]
- 2) You testified that your account was updated on that day by a Navigator.
- 3) You testified that you wanted to update your NYSOH account because you wanted to find out if you could get coverage for your son through NYSOH for 2016.
- 4) You testified that the Navigator sent you screen shots of the application via email, and that you replied to her with all of the information that was requested.
- 5) You testified that your address had changed since you last updated your NYSOH account.
- 6) You testified that you moved in June of 2015 to [REDACTED]. You testified that you did not update your NYSOH account at that time because no one in your household was enrolled in coverage through NYSOH.

- 7) You testified that you had postal mail forwarding in place for mail sent to your old address.
- 8) You testified that, when you sent information to the Navigator to update your application in December 2015, you included your new address.
- 9) You testified that you were not aware that the Navigator had not updated your address.
- 10) The record reflects that the December 11, 2015 eligibility determination was stamped "Return Mail, December 29, 2015" and was uploaded to your NYSOH account by a NYSOH representative on January 5, 2016 (document [REDACTED]).
- 11) The record reflects this notice was uploaded to your NYSOH account with a copy of a window envelope. On the lower right corner of the envelope, there is a label with an address and the words "Return to Sender." The address on the label is partially illegible, but the parts that can be read are as follows:

[REDACTED]

(Document [REDACTED]).
- 12) The record reflects that your mailing address was changed in your NYSOH account to [REDACTED]. The "Address History" button in your account lists this as your new address as of January 5, 2016.
- 13) The record does not reflect who it was that changed your address in your NYSOH account, nor does it reflect the date on which it was changed.
- 14) The record indicates that the December 11, 2015 eligibility determination notice was re-mailed to the [REDACTED] address listed above, and that it was marked "Return Mail, March 7, 2016" and uploaded to your NYSOH account by a NYSOH representative on April 15, 2016. (Document [REDACTED]).
- 15) The record reflects that the April 15, 2016 eligibility determination and disenrollment notices were mailed to the [REDACTED] address.

- 16) The record further reflects that these two notices were returned as undeliverable to NYSOH on April 28, 2016, and uploaded to your NYSOH account on May 27, 2016 (documents [REDACTED] and [REDACTED]).
- 17) You testified at the hearing that you moved from [REDACTED] to your new address in [REDACTED] on June 1, 2015.
- 18) You testified that you have never lived at the [REDACTED] address that is listed in your account and to which NYSOH mailed the April 15, 2016 notices.
- 19) You further testified that you do not know anyone, nor have you ever known anyone, who lives at the [REDACTED] address.
- 20) You testified that your child has been a continuous resident of New York State since you applied through NYSOH in April of 2015.
- 21) You testified that you first became aware that there was a problem with your child's coverage in April 2016 when you went to a physical therapy appointment for him and were informed that his coverage was about to end.
- 22) You testified that, at that point, you tried to contact the same Navigator who had updated your account in December 2015, but that she was no longer working as a Navigator, and so a new Navigator assisted you in updating your NYSOH application in April 2016.
- 23) You testified that your child has medical bills from the month of May 2016, when he had no insurance coverage.
- 24) You testified that you are looking for your son's CHP coverage to be reinstated for the month of May 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 - Generally

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a

household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

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. 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 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 child's eligibility and enrollment in CHP terminated effective April 30, 2016.

When NYSOH denies, terminates, or suspends a child's CHP 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.

NYSOH issued a notice on April 15, 2016 stating that your child was no longer eligible for CHP as of April 30, 2016 because mail sent to NYSOH was returned as undeliverable. These notices were addressed to a mailing address in

You credibly testified that you moved from your former [REDACTED] address to your [REDACTED] address in June 2015, and that you had not

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updated the information in your NYSOH account at that time because no one in your household was enrolled in coverage through NYSOH. You further credibly testified that, when you sent information to a Navigator for your account to be updated in December 2015, you included your new [REDACTED] address. Lastly, you credibly testified that you had a postal mail forwarding request in place so that mail sent to your [REDACTED] address would be forwarded to your [REDACTED] address.

Nevertheless, the record reflects that your [REDACTED] address was used when the Navigator updated your NYSOH account on December 10, 2015, which caused the December 11, 2015 eligibility determination and enrollment confirmation notices to be mailed to this address. The record indicates that the December 11, 2015 eligibility determination notice was returned to NYSOH and that NYSOH uploaded the returned notice to your NYSOH account, along with a copy of an envelope that had a "Return to Sender" label, and a [REDACTED] address (see Document [REDACTED]).

It appears that a NYSOH representative then changed your mailing address to the [REDACTED] address, and re-mailed the December 11, 2015 eligibility determination to that address. When that notice was again returned as undeliverable with the [REDACTED] address, NYSOH issued the April 15, 2016 eligibility determination and disenrollment notices, and sent them to the [REDACTED] address.

However, you credibly testified that you have never lived at the [REDACTED] address that NYSOH sent these notices to. Moreover, you credibly testified that you do not know, nor have you ever known, anyone who has lived at this address. Further, though the "Return to Sender" label is partially illegible in your NYSOH account, it is clear even from the uploaded copy that the first line of the address on the label contains a name that is not yours, as it reads [REDACTED] (see Document [REDACTED]). Presumably, the label is more legible when viewing the original.

It is unclear whether it was Post Office error that led to the affixing of an incorrect label to the envelope, or whether someone at NYSOH inadvertently uploaded the wrong envelope to your account. Whatever the case, a NYSOH employee's erroneous actions in changing your address to one on a "Return to Sender" label that clearly did not contain your name caused your notices to be sent to an incorrect address. Therefore, you did not have sufficient notice to update your account before your child's CHP coverage was terminated.

Since you did not receive proper and timely notice that there was an inconsistency in your NYSOH account as it related to your child's eligibility, the April 15, 2016 eligibility determination stating that your child was no longer eligible to enroll in coverage through NYSOH, and the April 15, 2016

disenrollment notice ending your child's enrollment in his CHP plan as of April 30, 2016 were incorrect and are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his CHP plan for the month of May, without interruption. You will be responsible for any unpaid premiums.

Decision

The April 15, 2016 notice of eligibility determination is RESCINDED.

The April 15, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NY State of Health to reinstate your child's coverage in his CHP plan for the month of May 2016, without interruption. You will be responsible for any unpaid premiums.

Effective Date of this Decision: November 7, 2016

How this Decision Affects Your Eligibility

NY State of Health erred in disenrolling your child from his CHP plan effective April 30, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of May 2016, without interruption.

You are responsible for any unpaid premium 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

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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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- By fax: 1-855-900-5557

Summary

The April 15, 2016 notice of eligibility determination is RESCINDED.

The April 15, 2016 notice of disenrollment is RESCINDED.

Your case is RETURNED to NY State of Health to reinstate your child's coverage in his CHP plan for the month of May 2016, without interruption. You will be responsible for any unpaid premiums.

NY State of Health erred in disenrolling your child from his CHP plan effective April 30, 2016.

Your case is being sent back to NY State of Health to reinstate your child's coverage for the month of May 2016, without interruption.

You are responsible for any unpaid premium 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:

