



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

Notice of Decision

Decision Date: December 2, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009238

[REDACTED]

Dear [REDACTED],

On November 7, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 3, 2016 eligibility determination and disenrollment notices, and April 28, 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 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:

Was your appeal of New York State of Health's (NYSOH) February 3, 2016 eligibility determination and disenrollment notices timely?

Did NYSOH properly determined that your children's eligibility for and enrollment in their CHP coverage began effective June 1, 2016?

Procedural History

On October 21, 2015, you updated your NYSOH account.

On October 22, 2015, NYSOH issued a notice of eligibility determination stating that your daughter was conditionally eligible to enroll in CHP with a \$9.00 monthly premium, effective December 1, 2015. The notice also stated that your son remained conditionally eligible for Medicaid, effective October 1, 2015. The notice further requested that you provide your children's Social Security numbers before January 19, 2016.

Also on October 22, 2015, NYSOH issued a notice confirming your daughter's enrollment in a CHP plan, effective December 1, 2015, and your son's enrollment in a Medicaid Managed Care plan, effective December 1, 2015.

On February 3, 2016, NYSOH issued an eligibility determination notice stating that your daughter and son were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of

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insurance. They also could not enroll in a qualified health plan at full cost because you had not confirmed your daughter's Social Security number, and had not confirmed your son's citizenship status and Social Security number, within the required timeframe.

Also on February 3, 2016 NYSOH issued a disenrollment notice stating that your daughter's enrollment in her CHP plan, and your son's enrollment in his Medicaid Managed Care plan, would both end effective February 29, 2016.

On April 27, 2016, the information in your NYSOH account was updated. That same day, NYSOH prepared a preliminary eligibility determination stating that your children were both eligible to enroll in CHP for a monthly premium of \$15.00 each, effective June 1, 2016.

Also on April 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the February 3, 2016 eligibility determination and disenrollment notices, insofar as they ended your children's financial assistance eligibility, your daughter's enrollment in her CHP plan, and your son's enrollment in his Medicaid Managed Care plan, effective February 29, 2016. You also appealed the start date of their new eligibility for, end enrollment in, their CHP coverage, insofar as it began on June 1, 2016, and not March 1, 2016.

On April 28, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP with a \$15.00 per month premium each, effective June 1, 2016.

Also on April 28, 2016, NYSOH issued a notice confirming their enrollment in a CHP plan, effective June 1, 2016.

On November 7, 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) You testified, and your account confirms, that you receive notices from NYSOH by regular mail.
- 2) You testified that you do not remember whether you received any notices stating that your children's eligibility was only conditional and that you needed to provide documentation of your daughter's Social Security number and your son's citizenship status and Social Security number.

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- 3) You testified that you think you were aware that you needed to provide your children's Social Security numbers to NYSOH, but that they were not available at the time when you initially applied for your children.
- 4) You testified that you are not sure when you received your children's Social Security numbers, but that you think you had them before your children were disenrolled from coverage at the end of February 2016.
- 5) You testified that you believe you became aware that your children's coverage had ended when you went to a doctor for one of your children and were told that they did not have coverage. However, you stated that you are not completely sure that this is how you discovered that your children's coverage had ended.
- 6) You testified that you contacted NYSOH as soon as you found out that your children no longer had coverage, and that you updated your account and re-enrolled them into coverage.
- 7) The record reflects that your children were without coverage for the months of March, April, and May 2016, and you confirmed this in your testimony.
- 8) You testified that you are not sure whether you have any outstanding medical bills for your children for that time period.
- 9) The record reflects that your son was born on [REDACTED], and you added him to your NYSOH account on October 20, 2015. Your October 21, 2015 application indicated that your son was a United States citizen and that he did not have a Social Security number because he needed to apply for one.
- 10) You testified that you are seeking for your children to be reinstated in their coverage for the months of March, April, and May 2016 so that there is no gap in their coverage.

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

Applicable Law and Regulations

Valid Appeal Requests

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

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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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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 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).

Legal Analysis

The first issue under review is whether your appeal of NYSOH’s February 3, 2016 eligibility determination and disenrollment notices, which terminated your daughter’s CHP coverage and your son’s Medicaid coverage as of February 29, 2016, was timely.

The record reflects that the first time you called NYSOH to file a complaint regarding your children's coverage had been discontinued was on April 27, 2016. The record indicates that a formal appeal was filed on your behalf on that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the cancellation of your children's respective coverages, as stated in the February 3, 2016 notices, an appeal should have been filed by April 3, 2016. According to the credible evidence in the record, you did not contact NYSOH until April 27, 2016 to file a formal appeal, which is beyond 60 days from the February 3, 2016 eligibility determination and disenrollment notices.

You testified that you cannot recall whether you received the February 3, 2016 notices at issue, but that you do not think that you did receive them. However, neither of the notices was returned to NYSOH as undeliverable. As such, it is concluded that you were properly notified that your children's coverage was ending as of February 29, 2016.

Therefore, there has been no timely appeal of the February 3, 2016 eligibility determination and disenrollment notices, and your appeal on the issue of the cancellation of daughter's CHP coverage, and your son's Medicaid Managed Care plan coverage, as stated in those notices, is DISMISSED.

The second issue under review is whether NYSOH properly determined that your children's eligibility for, and enrollment in their CHP plan coverage, was effective June 1, 2016.

The record reflects that you contacted NYSOH on April 27, 2016 and enrolled your children into a CHP plan, and your testimony confirmed this.

The date on which a CHP 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.

Since you updated your NYSOH application and selected a CHP plan on April 27, 2016, your children's coverage began on the first day of the second following month; that is, on June 1, 2016.

Therefore, the April 28, 2016 eligibility determination and enrollment confirmation notices, stating that your children's eligibility for and enrollment in their CHP plan coverage was effective June 1, 2016, are correct and must be AFFIRMED.

Decision

Your appeal of the February 3, 2016 eligibility determination and disenrollment notices was untimely and is therefore DISMISSED.

The April 28, 2016 eligibility determination is AFFIRMED.

The April 28, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 2, 2016

How this Decision Affects Your Eligibility

Your appeal of the February 3, 2016 eligibility determination and disenrollment notices was not made timely and will therefore not be addressed.

Your children's eligibility for and enrollment in their CHP plan coverage began effective June 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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

Your appeal of the February 3, 2016 eligibility determination and disenrollment notices was untimely and is therefore DISMISSED.

The April 28, 2016 eligibility determination is AFFIRMED.

The April 28, 2016 enrollment confirmation notice is AFFIRMED.

Your appeal of the February 3, 2016 eligibility determination and disenrollment notices was not made timely and will therefore not be addressed.

Your children's eligibility for and enrollment in their CHP plan coverage began effective June 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:

