



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

Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009292

[REDACTED]

Dear [REDACTED],

On November 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 5, 2016 disenrollment notice, April 16, 2016 eligibility determination notice and the April 26, 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 Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009292

[REDACTED]

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 child was disenrolled from his Child Health Plus plan effective March 31, 2016 and was not re-enrolled until June 1, 2016, resulting in a gap in coverage during the months of April 2016 and May 2016?

Procedural History

On October 6, 2015, you updated your application for health insurance to indicate that your child was seeking health insurance through NYSOH.

On October 7, 2015, NYSOH issued a notice of eligibility determination, based on your October 6, 2015 application, stating that your child was eligible for Child Health Plus with a \$9.00 monthly premium effective November 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan, effective November 1, 2015.

On November 16, 2015, NYSOH redetermined your eligibility for financial assistance. On November 22, 2015, NYSOH issued a notice of eligibility determination stating that your child was no longer eligible for Child Health Plus, however, his Child Health Plus coverage with a \$9.00 monthly premium would continue until October 31, 2016.

On March 4, 2016 you updated your application for health insurance.

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On March 5, 2016, NYSOH issued a notice advising that the income information you provided did not match what NYSOH had obtained State and Federal data sources. This same notice indicated that in order for your child's eligibility to be determined, you must submit income documentation for your household by March 20, 2016.

Also on March 5, 2016, NYSOH issued a disenrollment notice terminating your child's enrollment in his Child Health Plus plan, effective March 31, 2016.

On April 12, 2016 income documentation was uploaded to your NYSOH account.

On April 15, 2016, NYSOH redetermined your eligibility for financial assistance.

On April 16, 2016, NYSOH issued a notice of eligibility redetermination stating that your child was eligible to enroll in a Child Health Plus plan with a \$60.00 monthly premium, effective May 1, 2016.

On April 25, 2016 you enrolled your child into a Child Health Plus plan. On April 26, 2016, NYSOH issued an enrollment notice confirming your child's reenrollment in a Child Health Plus plan, which coverage would begin June 1, 2016.

On April 29, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin April 1, 2016.

On November 14, 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 believe you have selected to receive all of your notices from NYSOH by regular mail and by electronic mail.
- 2) Your NYSOH account shows that you receive your notices from NYSOH by regular mail.
- 3) You testified that when you updated your account on March 4, 2016 with a certified application counselor, you were trying to obtain coverage for yourself and your spouse and you were not trying to change your child's coverage.

- 4) You testified that you realized there was a problem with your child's coverage in April 2016.
- 5) You testified that you have medical bills for April 2016 and May 2016.
- 6) The record reflects that on April 12, 2016 income documentation was uploaded to your NYSOH account.
- 7) The record reflects that on April 15, 2016, NYSOH redetermined your child's eligibility for financial assistance.
- 8) You testified that you do not recall whether you received the April 16, 2016 eligibility determination asking you to select a plan for your child.
- 9) You testified that you are seeking that your child be enrolled in his Child Health Plus plan as of April 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 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," 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 Child Health Plus 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 Child Health Plus 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 Child Health Plus (NY Public Health Law § 2511(2)(j)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was disenrolled from his Child Health Plus plan effective March 31, 2016 and was not re-enrolled until June 1, 2016, resulting in a gap in coverage during the months of April and May 2016.

Your child was originally found eligible for Child Health Plus and enrolled effective November 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency.

On March 4, 2016 you updated your account. NYSOH's March 5, 2016 notice stated that the income information you provided did not match what NYSOH had obtained from State and Federal Data sources. Additional income information was requested by March 20, 2016. Also on March 5, 2016, NYSOH issued a disenrollment notice indicating your child's coverage in his Child Health Plus plan would end on March 31, 2016. This notice was sent four months after your child's initial enrollment effective November 1, 2015.

However, under the presumptive eligibility rule, your children should have been entitled to two months of presumptive eligibility upon the need to recertify for the

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next policy period beginning April 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, 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.

Additionally, your children's prior 12-month eligibility which began anew on November 1, 2015, should have run continuously for 12 months until October 31, 2016, barring any disqualifying event occurring.

There is no indication in the record of any such disqualifying event.

Therefore, the March 5, 2016 disenrollment notice is RESCINDED.

The April 16, 2016 eligibility determination is MODIFIED to state that your child's eligibility to enroll in a Child Health Plus plan is effective as of April 1, 2016.

The April 26, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the months of April 2016 and May 2016.

Decision

The March 5, 2016 disenrollment notice is RESCINDED.

The April 16, 2016 eligibility determination is MODIFIED to state that your child's eligibility to enroll in a Child Health Plus plan is effective as of April 1, 2016.

The April 26, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the months of April 2016 and May 2016.

Effective Date of this Decision: November 30, 2016

How this Decision Affects Your Eligibility

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Your case is being sent back to NYSOH to reinstate your child in his Child Health Plus plan for the months of April 2016 and 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)).

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
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- By fax: 1-855-900-5557

Summary

The March 5, 2016 disenrollment notice is **RESCINDED**.

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The April 26, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus for the months of April 2016 and May 2016.

Your case is being sent back to NYSOH to reinstate your child in his Child Health Plus plan for the months of April and May 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

