



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

Notice of Decision

Decision Date: January 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009634

[REDACTED]

[REDACTED]

On November 21, 2016, your spouse, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's March 20, 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.

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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's eligibility for financial assistance and enrollment in a Child Health Plus plan ended effective March 31, 2016?

Procedural History

On December 12, 2015, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a full price Child Health Plus (CHP) plan or a Child-Only qualified health plan. The notice also directed you to provide documentation before March 10, 2016 to confirm your son's citizenship status and Social Security number. This eligibility determination was effective January 1, 2016.

Also on December 12, 2015, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your child as of December 11, 2015. The notice stated that your child's CHP coverage, with a \$60.00 per month premium, would begin effective January 1, 2016. The notice also directed you to provide documentation before March 10, 2016 to confirm your son's citizenship status and Social Security number. The notice also warned you that your child's coverage could be cancelled if the requested documents were not provided to NYSOH before the stated deadline.

On March 20, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-

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sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not provided the requested documentation confirming his citizenship status and Social Security number within the required time frame.

Also on March 20, 2016, NYSOH issued a disenrollment notice stating that your child's CHP coverage would end effective March 31, 2016.

On April 22, 2016, NYSOH received a revised application for health insurance.

On April 23, 2016, NYSOH issued an eligibility determination notice based on the information contained in the April 22, 2016 application. The notice stated that your child was eligible for CHP with a \$60.00 per month premium, effective June 1, 2016.

Also on April 23, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your son as of April 22, 2016. The notice stated that your son's CHP plan coverage would begin effective June 1, 2016.

On May 16, 2016, you spoke to NYSOH's Account Review Unit and appealed the April 23, 2016 eligibility determination and enrollment notices insofar as it ended your child's financial assistance eligibility and enrollment in Child Health Plus for the months of April and May 2016.

On November 21, 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) Your application reflects that you elected to receive e-mail alerts from NYSOH regarding notice issued to your on-line account.
- 2) Your spouse testified that neither he nor you received any electronic alerts from NYSOH regarding notices in your account stating that your child's eligibility was only conditional and that you needed to provide documentation of his citizenship status and Social Security number.
- 3) Your spouse testified that he only learned that your child was about to be disenrolled from his CHP plan when your spouse accessed the NYSOH account on or about March 31, 2016 for an unrelated purpose.

- 4) Your spouse testified that he contacted NYSOH on or about March 31, 2016 to provide your child's Social Security number. Your spouse further testified that the NYSOH representative stated that your child's enrollment was now fine, and that no further action was required on your part.
- 5) Your child was disenrolled from his CHP plan effective March 31, 2016.
- 6) Your spouse testified, and your application reflects, that your account was then updated on April 22, 2016.
- 7) Your child was reenrolled into his CHP plan with coverage taking effect June 1, 2016.
- 8) Your spouse testified that you were seeking for your son's CHP coverage between April 1, 2016 and May 31, 2016 to be reinstated since you incurred out-of-pocket costs in connection with your child's medical care during that time.

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)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NYSOH for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security number to provide the number but does not require an applicant's Social Security number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic alerts, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was no longer eligible to enroll in Child Health Plus through NYSOH, effective March 31, 2016.

NYSOH is required to determine whether children are eligible to enroll in coverage, and must confirm, among other things, that their Social Security number and citizenship status is satisfactory.

If NYSOH cannot verify a child's Social Security number and citizenship status, it must provide notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received five days after the date on the notice.

The record indicates that your child was included in your NYSOH application on December 11, 2015. That application stated that your child was a United States Citizen and that he did not have a Social Security number because you were in the process of applying for one.

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In the eligibility determination issued on December 12, 2015 you were advised that your child's eligibility was only conditional, and that you needed to confirm his citizenship status and Social Security number before March 10, 2016. The record indicates that NYSOH did not receive the requested citizenship documentation before the deadline.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Your spouse credibly testified that neither he nor you received an electronic alert regarding the eligibility determination notice, which directed you that your child's eligibility was only conditional and that you needed to submit additional information. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your child's Social Security number and citizenship status.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account as it related to your child's eligibility, the March 20, 2016 eligibility determination stating that your child was no longer eligible for failure to submit documentation and the March 20, 2016 disenrollment notice ending his CHP plan as of March 31, 2016 were incorrect and are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his CHP plan for the months of April and May 2016, without interruption. You will be responsible for any unpaid premiums.

Decision

The March 20, 2016 notice of eligibility determination is RESCINDED.

The March 20, 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 months of April and May 2016, without interruption. You will be responsible for any unpaid premiums.

Effective Date of this Decision: January 3, 2017

How this Decision Affects Your Eligibility

NY State of Health erred in disenrolling your child from her Child Health Plus plan effective March 31, 2016.

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

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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Summary

The March 20, 2016 notice of eligibility determination is RESCINDED.

The March 20, 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 months of April and May 2016, without interruption. You will be responsible for any unpaid premiums.

NY State of Health erred in disenrolling your child from her Child Health Plus plan effective March 31, 2016.

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

Legal Authority

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

A Copy of this Decision Has Been Provided To:

