



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

Notice of Decision

Decision Date: February 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009677

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 2016 eligibility determination and enrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: February 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009677

[REDACTED]

Issue

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

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

Procedural History

On April 13, 2016, NYSOH received your updated application for financial assistance.

On April 14, 2016, NYSOH issued an eligibility determination notice stating that your two children were eligible to purchase a qualified health plan at full cost. The eligibility was effective May 1, 2016. The notice stated your children did not qualify for Child Health Plus because federal and state data sources show your children were already enrolled in Medicaid, Child Health Plus, or another program.

On May 3, 2016, an eligibility determination notice was issued based on your updated application on May 2, 2016 stating that your children were newly eligible to enroll in Child Health Plus for a cost of \$30.00 per month each, effective June 1, 2016.

On May 3, 2016, an enrollment confirmation notice was issued confirming your two children's enrollment in a Child Health Plus plan on May 2, 2016. The notice stated their health plan would start June 1, 2016.

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).

On May 17, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin May 1, 2016.

On August 25, 2016, NYSOH representatives attempted to contact you to confirm you still required an appeal hearing.

On November 21, 2016, a cancellation notice was issued dismissing your appeal.

On December 21, 2016, NYSOH received a written letter from you asking your dismissal be vacated, and a hearing date be scheduled on the issue.

On January 12, 2017, 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 are appealing only your two children's eligibility.
- 2) The record shows your navigator submitted an application to NYSOH for financial assistance on April 13, 2016.
- 3) You testified, and the record supports you enrolled your children into a Child Health Plus plan on May 2, 2016.
- 4) You testified that you need your children's Child Health Plus plan to begin on May 1, 2016, because the prior Medicaid coverage that was slated to end on May 31, 2016 ended instead on April 30, 2016.
- 5) The record supports NYSOH had data sources showing an end date of Medicaid coverage for your children as May 31, 2016.
- 6) You testified that you believe your children had coverage under Medicaid through the local County Department of Social Services or Human Resources Administration but were unsure.
- 7) An incident filed on May 17, 2016 by NYSOH representatives states your navigator had attempted to enroll your children in a Child Health Plus plan on April 13, 2016, but that the system showed your children had Medicaid until end of May 31, 2016 and as a result they could not avoid a gap in

coverage after that end date had been moved to April 30, 2016. See Incident [REDACTED].

- 8) You testified you incurred medical costs during the gap in coverage for your children in the month of May, 2016 in the amount of approximately \$600.00

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) 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 (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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).

Medicaid

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).

An individual is eligible for enrollment in Medicaid through NYSOH (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

In general, to qualify for MAGI-based Medicaid through NYSOH, you must also be one of the following:

- An adult aged 19-64 who is not eligible for Medicare Part A or Part B,
- A pregnant woman or infant,
- A child aged 1-18, or
- A parent or caretaker relative

(45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

If an individual does not fall into one of these categories, he or she may still be eligible for non-MAGI-based Medicaid coverage through their Local Department of Social Services or the New York City Human Resources Administration (see N.Y. Soc. Serv. Law § 366(1)(c)).

NYSOH is required to refer an individual who is not eligible for MAGI-based Medicaid because they are in receipt of Medicare, certified disabled, or over the age of 65 to the Local Department of Social Services or the Human Resources Administration. During the referral process, an individual's Medicaid eligibility, including their enrollment in a Medicaid Managed Care plan or receipt of Premium Payment Assistance, continues until such a time as their eligibility can be redetermined on a non-MAGI Medicaid basis (see *generally* 42 CFR § 435.1200, 42 CFR § 435.930, 14 OHIP/LCM-2 effective as of December 1, 2014, GIS 16 MA/04 effective as of January 1, 2016).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), 42 USCS §§ 1395c et seq.).

Legal Analysis

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

You testified that you contacted NYSOH on April 13, 2016, to attempt to enroll your children in a Child Health Plus plan. Based on your application, NYSOH issued an eligibility determination notice which found your two children eligible to purchase a qualified health plan at full cost effective May 1, 2016.

The notice stated your children did not qualify for Child Health Plus because federal and state data sources show your children were already enrolled in Medicaid, Child Health Plus, or another program.

NYSOH records indicate your children were both covered under Medicaid until May 31, 2016. Although during the hearing you were unsure whether their coverage was administered through your Local Human Resources Administration, NYSOH representatives indicated in a filed incident on May 17, 2016 that this was true.

You testified that your children's enrollment in Medicaid through that agency had actually been terminated a month earlier, effective April 30, 2016.

On May 2, 2016, you enrolled your children into a Child Health Plus plan with an effective date of June 1, 2016. This left your children without coverage for the month of May, 2016.

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 May 2, 2016, and enrollment was submitted on that day, your children's Child Health Plus plan would take effect on the first day of the following month, which is June 1, 2016.

Therefore, the May 3, 2016, eligibility determination notice finding your children eligible for Child Health Plus, and enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective June, 2016, are **AFFIRMED**.

It is noted that your navigator did attempt to enroll your children earlier on April 13, 2016 when NYSOH records were indicating your children already had minimum essential coverage under Medicaid. The enrollment was denied as a result of your children showing as being currently enrolled in Medicaid until the

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).

end of the following month. To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid. This includes the agency that had previously administered your children’s insurance.

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. It cannot be determined whether proper notice was provided to you of the end date of your children’s Medicaid coverage.

Decision

The May 3, 2016, eligibility determination notice is AFFIRMED.

The May 3, 2016, enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 3, 2017

How this Decision Affects Your Eligibility

The effective date of your children’s Child Health Plus plan is 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

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).

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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 3, 2016, eligibility determination notice is AFFIRMED.

The May 3, 2016, enrollment confirmation notice is AFFIRMED.

The effective date of your children's Child Health Plus plan is 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:

