



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

Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009940

[REDACTED]

Dear [REDACTED],

On December 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 27, 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 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 § 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: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009940

[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's eligibility for, and enrollment in, her Child Health Plus (CHP) plan was effective July 1, 2016?

Procedural History

On October 31, 2013, NYSOH issued a notice welcoming you to NYSOH, and confirming that you had elected to receive all information from NYSOH electronically.

On November 3, 2014, NYSOH issued a renewal notice, stating that your child was eligible for CHP, effective January 1, 2015. Your child was re-enrolled in a CHP plan.

On October 23, 2015, NYSOH issued a notice stating that it was time to renew your child's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for her health coverage, and that you needed to update your account by December 15, 2015, or your child might lose the financial assistance she was currently receiving.

No updates were made to your account by December 15, 2015.

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On December 21, 2015 NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-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 completed the renewal within the required time frame. Your child's eligibility ended effective December 31, 2015.

Also on December 21, 2015, NYSOH issued a disenrollment notice stating that your child's enrollment in her CHP plan was ending effective December 31, 2015.

On April 25, 2016, NYSOH received your child's updated application for health insurance.

On April 26, 2016 NYSOH issued a notice of eligibility determination, based on your April 25, 2016 application, stating that your child did not qualify to enroll in coverage through NYSOH because, based on her health needs, her insurance application had been referred to the local Department of Social Services for further determination.

On May 26, 2016, you updated your NYSOH account. That same day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible to enroll in CHP with a monthly cost of \$45.00, effective July 1, 2016.

Also on May 26, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan, insofar as it did not begin January 1, 2016.

On May 27, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a \$45.00 monthly premium, effective July 1, 2016.

Also on May 27, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 26, 2016, stating that your child was enrolled in a CHP plan, and that coverage would start on July 1, 2016.

On December 5, 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 NYSOH account reflects that you were originally enrolled to receive electronic mail alerts regarding notices in your NYSOH account.
- 2) You testified that you did not receive an email alerting you to the October 23, 2015 renewal notice, nor did you receive anything in the mail.
- 3) You testified that you also did not receive emails regarding the December 21, 2015 eligibility determination and disenrollment notices.
- 4) You testified that you did not know that your daughter's coverage had terminated until you took her to the emergency room at the end of April 2016, and were informed that her insurance was not active.
- 5) You testified that you had not noticed that you hadn't received an invoice for her coverage, as it was still relatively early in the year.
- 6) You testified that you were not aware that you needed to renew her coverage. You testified that you contacted NYSOH when you found out that her coverage had terminated and updated her application.
- 7) Your NYSOH account reflects that on April 25, 2016, NYSOH received your daughter's updated application for health insurance.
- 8) You testified that the person you spoke with in April or May 2016 told you that an email had allegedly been sent to you regarding the email notice. You testified that you went into your email account to look for any emails from NYSOH during that time period, and that there were none.
- 9) You testified that a NYSOH representative you spoke with in May 2016 changed your contact preference to regular mail. Your NYSOH account reflects that you are now enrolled to receive notices in the regular mail.
- 10) Your NYSOH account contains a note made by a NYSOH employee, dated June 10, 2016, which states: "Backdating CHP coverage effective 6/1/2016 for [REDACTED]"
- 11) You acknowledged that your daughter's CHP coverage was backdated to June 1, 2016, but that you are looking for it to be backdated to January 1, 2016.
- 12) You testified that you have medical bills for your daughter for a hospital stay from the end of April 2016 into early May 2016 that total

approximately \$13,500.00, and that you are hoping to have her CHP coverage backdated so that you can have some of these bills covered.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

Child Health Plus

The "period of eligibility" for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP begins on the first day of the month during which a child is eligible. A child will

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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).

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 notices, 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's eligibility for, and enrollment in, her CHP plan was effective July 1, 2016.

Your child was originally found eligible for CHP effective January 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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. NYSOH's October 23, 2015 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your child was terminated from her CHP plan, effective December 31, 2015.

However, you testified and the record reflects that you originally elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update the information in your NYSOH account on behalf of your child. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's application.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your child's behalf.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on April 25, 2016, and therefore we must assume that

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this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the May 27, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your child is eligible to enroll in CHP with a \$45.00 premium per month, and the May 27, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective January 1, 2016.

Decision

The May 27, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your child eligible to enroll in CHP with a \$45.00 premium per month.

The May 27, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to facilitate your daughter's enrollment in her CHP plan as of January 1, 2016.

Effective Date of this Decision: December 8, 2016

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in her CHP plan should have been effective as of January 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan as of January 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.

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

Summary

The May 27, 2016 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2016, your child eligible to enroll in CHP with a \$45.00 premium per month.

The May 27, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective January 1, 2016.

Your case is RETURNED to NYSOH to facilitate your daughter's enrollment in her CHP plan as of January 1, 2016.

Your child's eligibility for and enrollment in her CHP plan should have been effective as of January 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan as of January 1, 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:

