



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

Notice of Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010104

[REDACTED]

[REDACTED]

On December 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4, 2016 enrollment confirmation notice and the June 4, 2016 disenrollment 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 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).

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Decision

Decision Date: January 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010104



Issue

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

The issue is whether your child was eligible for and enrolled in a Child Health Plus plan through NYSOH for the months of April, May, and June 2016?

Procedural History

On March 2, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, stating that your daughter was eligible to enroll in Child Health Plus, at a cost of \$30.00 per month, effective April 1, 2016.

On March 4, 2016, NYSOH issued a notice of enrollment confirmation, based on your plan selection on March 3, 2016, stating that your daughter was enrolled in a Child Health Plus program, with a plan start date of April 1, 2016.

On April 2, 2016, NYSOH issued a notice of eligibility determination, stating that your daughter was conditionally eligible to enroll in Child Health Plus, effective May 1, 2016. You were directed to submit additional documentation to confirm your income before May 31, 2016.

Also, on April 2, 2016, NYSOH issued a notice of enrollment confirmation, confirming that your daughter was enrolled in a Child Health Plus program, effective April 1, 2016.

On June 4, 2016, NYSOH issued a disenrollment notice stating that your daughter's coverage through Child Health Plus plan would end effective June 30, 2016.

On June 6, 2016, you spoke to NYSOH's Account Review Unit and appealed your daughter's apparent disenrollment from her Child Health Plus plan for the months of April, May, and June 2016.

On November 30, 2016, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On December 5, 2016, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and left open to allow the Hearing Officer to review telephone conversations that you had with NYSOH.

The Hearing Officer reviewed telephone conversations you had with NYSOH on May 13, 2016, May 17, 2016, June 1, 2016, June 2, 2016, and June 6, 2016. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your daughter's eligibility.
- 2) You selected a Child Health Plus plan for your daughter on March 3, 2016.
- 3) You submitted an application to NYSOH for financial assistance on April 1, 2016, in which you reported an annual household income of \$53,711.46.
- 4) You testified that you were advised by your child's Child Health Plus carrier that your premium payment would not be accepted because your daughter's enrollment was terminated.
- 5) The record does not contain a notice from NYSOH indicating that a premium payment was not received by your daughter's Child Health Plus plan.
- 6) You testified that when you contacted NYSOH, they advised you that your daughter's Child Health Plus coverage was active.

- 7) A review of the telephone recordings indicated that on May 13, 2016, NYSOH advised you that their records reflected that your daughter had Child Health Plus coverage beginning on April 1, 2016.
- 8) You testified that your daughter did not have coverage through a Child Health Plus plan for the months of April, May, and June 2016.
- 9) Several Complaints were filed with NYSOH in regards to your daughter's coverage through NYSOH.
- 10) Complaint [REDACTED] stated that you had an enrollment issue with your daughter's health plan and you were advised by DOH to cancel, reenroll and request a backdate. However, the backdate request was denied due to the consumer not providing income docs before the expired time clock.

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" (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).

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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).

Legal Analysis

The issue is whether your daughter was eligible for and enrolled in a Child Health Plus plan through NYSOH for the months of April, May, and June 2016.

The record indicates, that you contacted NYSOH on March 3, 2016 and enrolled your daughter into a Child Health Plus plan. The record shows that your daughter was eligible for and enrolled in Child Health Plus effective April 1, 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. Since your daughter was enrolled in a Child Health Plus plan on March 3, 2016, her enrollment would have begun April 1, 2016.

Once a child becomes eligible for Child Health Plus, that eligibility runs for twelve continuous months unless an event occurs that would disqualify the child from coverage. Events that end the twelve month period include Child Health Plus premiums not being timely paid or the child no longer residing in New York State, gaining access to or obtaining other health insurance coverage, or becoming eligible for Medicaid. Based on the date of your daughter's application and eligibility, her eligibility should run continuously for a twelve month period from April 1, 2016 to March 31, 2017.

You testified that your daughter did not have active coverage through a Child Health Plus plan for the months of April, May, and June 2016.

You testified that you were advised by your child's Child Health Plus carrier that your premium payment for April would not be accepted because your daughter's enrollment was terminated. The record does not contain a notice from NYSOH indicating that a premium payment was not received by your daughter's Child Health Plus plan. Further, your child did not become eligible for Medicaid, or become enrolled in third party health insurance during 2016. You have not moved outside of the state of New York in 2016. Based on your testimony and the record, no triggering event occurred that would have resulted in the end of your child's period of continuous enrollment in her Child Health Plus plan.

Therefore, your daughter should have active enrollment in a Child Health Plus plan barring any of the above triggering events, effective April 1, 2016.

You submitted an application to NYSOH for financial assistance on April 1, 2016, in which you reported an annual household income of \$53,711.46. As a result of this application, your daughter's eligibility became conditional pending your submission of additional documentation to confirm that your income was within the Child Health Plus level before May 31, 2016.

The State of New York has elected to find a child presumptively eligible for Child Health Plus for 60 days if the child appears eligible for coverage pending submission of documentation.

Since your daughter should have remained enrolled in her Child Health Plus plan for 60 days pending submission of income documentation she should have had active Child Health Plus coverage for the months of April, May, and June 2016.

Therefore, the March 4, 2016 enrollment confirmation notice stating your daughter was enrolled in a Child Health Plus plan effective April 1, 2016, and the June 4, 2016 disenrollment notice stating that her enrollment in her Child Health Plus plan ended effective June 30, 2016 are AFFIRMED.

Decision

The March 4, 2016 enrollment confirmation notice is AFFIRMED.

The June 4, 2016 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to ensure that your daughter ([REDACTED]) has active coverage in her Child Health Plus plan for April, May, and June 2016.

Effective Date of this Decision: January 13, 2017

How this Decision Affects Your Eligibility

Your daughter should have had active coverage through her Child Health Plus plan in April, May, and June 2016.

Your case is being sent back to NYSOH to ensure the enrollment stated above.

If You Disagree with this Decision (Appeal Rights)

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

Summary

The March 4, 2016 enrollment confirmation notice is AFFIRMED.

The June 4, 2016 disenrollment notice is AFFIRMED.

Your daughter should have had active coverage through her Child Health Plus plan in April, May, and June 2016.

Your case is RETURNED to NYSOH to ensure that your daughter ([REDACTED]) has active coverage in her Child Health Plus plan for April, May, and June 2016.

Your case is being sent back to NYSOH to ensure the enrollment stated above.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

