



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

Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010172

[REDACTED]

Dear [REDACTED],

On December 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 4, 2016 notice of disenrollment and June 9, 2016 notice of enrollment confirmation.

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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly dis-enroll your oldest child (child) from her Child Health Plus plan for non-payment of premium effective, April 30, 2016?

Did NYSOH properly determine that your child's re-enrollment in her Child Health Plus plan was not effective until July 1, 2016?

Procedural History

On October 22, 2015, NYSOH issued a notice stating that it was time to renew your child's NYSOH coverage for the 2016 coverage year. The notice stated that your child was eligible to re-enroll in a Child Health Plus plan, effective January 1, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan, with a \$30.00 monthly premium, effective January 1, 2016.

On May 4, 2016, NYSOH issued a notice of disenrollment stating that your child's Child Health Plus plan was terminated, effective April 30, 2016, because premium payment(s) had not been received by the health plan.

On June 8, 2016 you contacted NYSOH to re-enroll your child in a Child Health Plus plan and was advised that her coverage would not begin until July 1, 2016.

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Also on June 8, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health plus plans insofar as it did not begin May 1, 2016.

On June 9, 2016 NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan, effective July 1, 2016.

On December 9, 2016 you were scheduled to have a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. That day, a Hearing Officer called you but you were unable to go forward with your scheduled hearing. You requested an adjournment and it was granted.

On December 14, 2016, you had an adjourned 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) The record reflects that your child was enrolled in a Child Health Plus plan for the 2016 coverage year with a \$30.00 monthly premium, effective January 1, 2016.
- 2) You testified that your family's home burned down in November 2015 and since that time you have been consumed with working and trying to rebuild the home. You testified that as a result, you missed some of your child's Child Health Plus premium payments.
- 3) You testified that you learned your child had been dis-enrolled from her Child Health Plus plan when informed by a medical provider following treatment.
- 4) You testified, and the record reflects, that your child was without health insurance in May and June 2016.
- 5) You testified that you paid out of pocket for medical treatment your child received during this time.
- 6) You testified that you are seeking to have your child reinstated in her Child Health Plus plan for May and June 2016.
- 7) You testified that you spoke to your child's health plan wherein you were advised that the health plan could not backdate your child's insurance

coverage because only NYSOH had the authority to facilitate such backdating of coverage.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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).

Legal Analysis

The first issue is whether NYSOH properly terminated your child's Child Health Plus plan for non-payment of premium effective, April 30, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan, with a \$30.00 monthly premium, effective January 1, 2016.

You testified that due to a traumatic family event, you missed some of your child's Child Health Plus premium payments. As a result, on May 4, 2016, NYSOH issued a notice of disenrollment stating that your child's Child Health Plus plan was terminated, effective April 30, 2016, because premium payment(s) had not been received by the insurer.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your child was properly terminated from her health plan for non-payment of premiums. Therefore, your appeal of the May 4, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your child's re-enrollment in her Child Health Plus plan was effective July 1, 2016.

You testified, and the record reflects, that after you learned your child had been dis-enrolled from her Child Health Plus plan, you contacted NYSOH on June 8, 2016 and re-enrolled her into a Child Health plus plan.

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.

In the present case, since you selected a health plan for your child on June 8, 2016, the plan goes into effect on the first day of the following month; that is July 1, 2016.

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Therefore, the June 9, 2016 enrollment confirmation notice stating that your child's enrollment in her Child Health Plus plan was effective July 1, 2016, is correct and must be AFFIRMED.

It is noted that your child's health plan may agree to effectuate an earlier start date for her plan. Nothing in this decision is to be construed as to prevent your child's health plan from backdating her Child Health Plus coverage in accordance with the health plan's policies and procedures.

Decision

Your appeal on the issue of disenrollment for non-payment of premium as described in the May 4, 2016 cancellation notice is DISMISSED.

The June 9, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 21, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The start date of your child's Child Health Plus plan is July 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)).

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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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your appeal on the issue of disenrollment for non-payment of premium as described in the May 4, 2016 cancellation notice is **DISMISSED**.

the June 9, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your child's eligibility.

The start date of your child's Child Health Plus plan is July 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:

