



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

Notice of Decision

Decision Date: January 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010190

[REDACTED]

On December 9, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 16, 2015 enrollment confirmation and cancellation of your child's Child Health Plus plan.

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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Issues

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

Did the NY State of Health (NYSOH) properly determine that your child's enrollment in her Child Health Plus plan was effective November 1, 2015?

Was your child's enrollment in her Child Health Plus plan properly cancelled for non-payment of premium effective, November 1, 2015?

Procedural History

On September 25, 2014, a Certified Application Counselor (CAC) accessed the NYSOH website, created account [REDACTED], and submitted an application for financial assistance to NYSOH to help pay for the cost of your child's health insurance.

On December 15, 2014, NYSOH issued a notice of enrollment confirmation stating that your daughter was enrolled in a no-cost Child Health Plus plan on October 9, 2014 with an effective date of November 1, 2014.

On September 14, 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 October 15, 2015 or your child might lose the financial assistance she was currently receiving.

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No updates were made to account [REDACTED] by October 15, 2015.

On October 15, 2015, you accessed the NYSOH website and created a new account, [REDACTED], wherein you submitted a new application for financial assistance to NYSOH to help pay for the cost of your child's health insurance.

On October 16, 2015, NYSOH issued an eligibility determination notice under the new account, [REDACTED], based on the October 15, 2015 application, stating your child was eligible for Child Health Plus with a \$30.00 monthly premium, effective November 1, 2015.

Also on October 16, 2015, NYSOH issued a notice of enrollment confirmation, under account [REDACTED], stating your child was enrolled in a Child Health Plus plan with a \$30.00 monthly premium, effective November 1, 2015.

On October 17, 2015, NYSOH issued an eligibility redetermination notice under the previous account, [REDACTED], stating your child was not qualified to enroll in health insurance through NYSOH because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. The notice further stated that your child no longer qualified to receive financial assistance to help pay for health coverage and her eligibility would end effective October 31, 2015.

Also on October 17, 2015, NYSOH issued a disenrollment notice under account [REDACTED] stating that your child's Child Health Plus coverage would end effective October 31, 2015.

On January 20, 2016, NYSOH issued a notice of enrollment confirmation, under account [REDACTED], confirming that your child was enrolled in a Child Health Plus plan as of November 1, 2015.

On March 29, 2016, NYSOH issued a notice stating that NYSOH received your application dated March 16, 2016, but was unable to process a determination. The notice stated that because you already have an account through NYSOH, the information provided in your application needed to be reviewed with you before NYSOH could update your account with the new information and make an eligibility determination for your child. Finally, the notice stated that your application may be denied if NYSOH did not hear from you by April 13, 2016

On May 30, 2016, NYSOH issued a notice stating that your March 16, 2016 application was denied because you failed to contact NYSOH by April 13, 2016 to review the information in your application.

On June 9, 2016, NYSOH issued an eligibility redetermination notice under account [REDACTED], based on a June 8, 2016 updated application, stating that your child was eligible for Medicaid, effective July 1, 2016.

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Also on June 9, 2016, NYSOH issued an eligibility redetermination notice, under account [REDACTED], stating that your child was eligible for retroactive Medicaid coverage from March 1, 2016 through May 31, 2016.

Additionally, on June 9, 2016, NYSOH issued a disenrollment notice, under account [REDACTED], stating that your child's Child Health Plus plan was terminated, effective June 30, 2016, because she was no longer eligible to remain enrolled in her plan.

Finally, on June 9, 2016 you spoke to NYSOH's Account Review Unit and appealed the dates of coverage of your child's Child Health Plus plan insofar as she did not have continuous coverage through Child Health Plus from November 1, 2015 to June 30, 2016.

On June 10, 2016, NYSOH issued an enrollment confirmation notice, under account [REDACTED], stating that your child was enrolled in a Medicaid Managed Care (MMC) plan, effective July 1, 2016.

On December 9, 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.

The NYSOH Appeals Unit reviewed the following phone calls you and/ or your representative made to NYSOH: Three phone calls made on January 19, 2016, one phone call made on January 20, 2016, one phone call made on January 27, 2016, one phone call made on April 11, 2016, one phone call made on June 8, 2016, and two phone calls made on June 9, 2016.

Findings of Fact

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

- 1) Your child was enrolled in a no pay Child Health Plus plan under account [REDACTED] from November 1, 2014 to October 30, 2015.
- 2) You failed to renew your child's coverage under account [REDACTED] for the next year and your child was dis-enrolled from her Child Health Plus plan under this account on October 31, 2015.
- 3) On October 15, 2015, you created a new account, [REDACTED], and submitted a new application for financial assistance to NYSOH. NYSOH found your child eligible to enroll in Child Health Plus with a \$30.00 monthly premium under the new account and she was enrolled into a plan effective November 1, 2015.

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- 4) You testified that after enrolling your child in a plan online, you received conflicting notices from NYSOH and the insurer regarding your child's enrollment, and as a result you did not believe you had to make the November premium payment for your child's Child Health plus coverage.
- 5) You testified that on December 8, 2015 you mailed a check for \$30.00 to the insurer for the January 2016 premium payment due on your child's Child Health Plus plan. You testified that the insurer retained this check and you have not been refunded.
- 6) You testified that aside from the \$30.00 check you mailed to the insurer in December, you have not made any additional premium payments for your child's Child Health Plus coverage.
- 7) You testified that you took your child to the doctor in January 2016 wherein you discovered that she did not have health coverage.
- 8) On June 8, 2016, you submitted an application to NYSOH with updated income information. Thereafter, your child was found eligible for Medicaid, effective, July 1, 2016. Additionally, your child was found eligible for retroactive Medicaid coverage for the period of March 1, 2016 to May 31, 2016.
- 9) You enrolled your daughter in a Medicaid Managed Care plan that was effective July 1, 2016.
- 10) NYSOH Appeals Unit reviewed the following phone calls you and/ or your representative made to NYSOH and determined the following:
 - a. On January 19, 2016 you were advised by a NYSOH representative that if the insurer had cancelled your child's Child Health Plus plan for non-payment of premiums you would have to re-enroll your child with NYSOH by February 15, 2016 for a March 1, 2016 start date.
 - b. On January 20, 2016, during a conference call with you, a representative from the insurer and a representative from NYSOH, you were advised that the insurer had a \$30.00 credit for you on file because the insurer did not have an active account for you when they received the check you sent in December 2015. The insurer indicated that there was an ongoing investigation concerning your child's enrollment status. You stated that you were willing to pay the outstanding premium payments if necessary because you did not want your child to have a gap in health coverage.

- c. On January 27, 2016, during a conference call with you, a representative from the insurer and a representative from NYSOH you were advised that the insurer terminated your child's Child Health Plus enrollment because it did not receive the initial premium payment by November 10, 2015. The NYSOH representative advised that your child's coverage was still showing active through NYSOH because the insurer had not sent notice of termination to NYSOH. The NYSOH representative advised that he was submitting a referral to request reinstatement for your child back into her Child Health Plus plan as of November 1, 2015.
- d. On April 11, 2016 you and your Certified Application Counselor (CAC) were advised that the request to reinstate your child into her Child Health Plus plan was still pending as it was being investigated by a state specialist. You stated that you did not want to cancel your child's coverage and re-enroll her. You were advised that there was no available time frame as to when a decision on the request to reinstate your child's enrollment would be made. You declined to allow the representative to update the income information in your application.
- e. On the second call on June 9, 2016, you filed an appeal to review your child's dates of coverage through her Child Health Plus plan. The NYSOH representative advised you that filing the appeal would not dismiss the request for reinstatement that was currently pending on your account.

- 11) The record is devoid of any written notice terminating your child's Child Health Plus coverage for non-payment of premiums.
- 12) You testified that you are seeking reimbursement from your child's Child Health Plus plan for out of pocket expenses you incurred in January 2016 relating to a medical appointment and prescription costs. Additionally, you testified that you were concerned about potential tax repercussions due to your child being without health coverage.
- 13) You testified that you are seeking confirmation that your daughter was covered by a Child Health Plus plan from November 1, 2015 to June 30, 2016.

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

Applicable Law and Regulations

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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).

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)).

Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a QHP; (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the

expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (d)).

NYSOH has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

Legal Analysis

The first issue is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan was effective November 1, 2015.

You testified and the record reflects that on October 15, 2015 you created a new account, [REDACTED], and submitted a new application for financial assistance to NYSOH. You then enrolled your child 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.

Since you selected a plan for your child on October 15, 2015, the plan goes into effect on the first day of the following month; that is, November 1, 2015

Therefore, the October 16, 2015 enrollment confirmation notice, issued under account [REDACTED], stating that your child was enrolled in a Child Health Plus plan effective November 1, 2015, was correct and is AFFIRMED.

The second issue is whether your child's enrollment in her Child Health Plus plan was properly cancelled for non-payment of premium effective, November 1, 2015.

On October 15, 2015, you created a new account, [REDACTED], rather than updating your child's existing account, [REDACTED], and submitted a new application for financial assistance to NYSOH. Thereafter, on October 16, 2015, NYSOH issued a notice of enrollment confirmation stating your child was enrolled in a Child Health Plus plan with a \$30.00 monthly premium, effective November 1, 2015.

As a result of your failure to renew your child's existing account, [REDACTED], NYSOH dis-enrolled your child from her Child Health Plus plan under this account. Accordingly, NYSOH sent two notices on October 17, 2016; one stating that your child was no longer qualified to enroll in health coverage through NYSOH and the other stating that your child was dis-enrolled from her Child Health Plus plan as of October 31, 2015.

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You testified that you were confused by the conflicting notices you received from NYSOH and the insurer regarding your child's enrollment, and as a result you did not believe you had to make the November premium payment for your child's Child Health plus coverage. However, you testified that on December 8, 2015 you mailed a check for \$30.00 to the insurer for the January 2016 premium payment due on your child's Child Health Plus plan. You testified that the insurer retained this check and you have not been refunded. Finally, you testified that aside from the \$30.00 check you mailed to the insurer in December, you have not made any additional premium payments to the insurer for your child's Child Health Plus coverage.

It is noted that there is no evidence in the record that your child was terminated from her Child Health Plus plan for non-payment of premiums. However, a review of a January 27, 2016 conference call between you, a representative from the insurer and a representative from NYSOH, revealed the insurer is contending that your child's enrollment in her Child Health Plus plan, under account [REDACTED], was terminated as of November 1, 2015, because the insurer did not receive the initial premium payment by November 10, 2015.

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 insurer's termination of your child's enrollment in her Child Health Plus plan for non-payment of premiums, effective November 1, 2015, is DISMISSED as a non-appealable issue.

Decision

The October 16, 2015 enrollment confirmation notice, issued under account [REDACTED], stating that your child was enrolled in a Child Health Plus plan effective November 1, 2015, was correct and is AFFIRMED.

Your appeal of the insurer's termination of your child's enrollment in her Child Health Plus plan for non-payment of premiums, effective November 1, 2015, is DISMISSED as a non-appealable issue.

Effective Date of this Decision: January 10, 2017

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

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
- By mail at:

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P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The October 16, 2015 enrollment confirmation notice, issued under account [REDACTED], stating that your child was enrolled in a Child Health Plus plan effective November 1, 2015, was correct and is AFFIRMED.

Your appeal of the insurer's termination of your child's enrollment in her Child Health Plus plan for non-payment of premiums, effective November 1, 2015, is DISMISSED as a non-appealable issue.

This decision does not change your child's eligibility.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

