



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

Notice of Decision

Decision Date: February 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010259

[REDACTED]

Dear [REDACTED],

On January 3, 2017, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health's June 4, 2016 eligibility determination and disenrollment notices, and the June 15, 2016 eligibility determination 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 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.

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health (NYSOH) properly determine that your daughter's eligibility for and enrollment in Child Health Plus was terminated effective June 30, 2016?

Procedural History

On February 27, 2016, NYSOH received three updates to your application that included your newborn daughter as seeking health insurance, each listing different annual expected earnings.

On February 28, 2016, NYSOH issued an eligibility determination notice based on the information contained in last update to your application received on February 27, 2016. The notice stated that your newborn daughter was newly eligible to enroll in a full price Child Health Plus (CHP) plan or Child-Only qualified health plan (QHP), effective April 1, 2016. The notice also requested that you provide her Social Security number before May 27, 2016 in order to confirm her eligibility.

Also on February 28, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your daughter as of February 27, 2016. The notice stated that your son and newborn daughter were enrolled in the same CHP plan with a total reduced premium of \$30.00 per month, effective January 1, 2016. This notice also requested that you provide a copy of your newborn daughter's Social Security number before May 27, 2016 in order to confirm her eligibility.

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This notice warned that if you did not provide the requested information by May 27, 2016, your newborn daughter could receive less or no financial assistance, or her health insurance coverage could be cancelled.

NYSOH subsequently backdated your newborn daughter's CHP coverage to begin March 1, 2016.

On June 3, 2016, NYSOH redetermined your newborn daughter's eligibility based on information contained in her application as of February 27, 2016.

On June 4, 2016, NYSOH issued an eligibility determination notice, stating that your newborn daughter was eligible for Medicaid effective February 1, 2016. It also advised you to select a Medicaid Managed Care (MMC) plan as soon as possible.

On June 14, 2016, NYSOH issued an enrollment notice confirming your selection of an MMC plan for your daughter's coverage as of June 13, 2016. The notice stated that your daughter's MMC plan coverage would begin effective July 1, 2016.

Also on June 14, 2016, NYSOH received three additional updates to your application for health insurance. In response to the final application update received by NYSOH on June 14, 2016, NYSOH prepared a preliminary eligibility determination stating that your newborn daughter was no longer eligible for Medicaid; however, her Medicaid coverage would continue because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible.

Finally, on June 14, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary determination insofar as your newborn child terminated from their CHP plan coverage effective June 30, 2016, and found eligible for Medicaid through continuous coverage guidelines.

On June 15, 2016, NYSOH issued an eligibility determination notice stating that your daughter was no longer eligible for Medicaid; however, her Medicaid coverage would continue until February 28, 2017. This eligibility determination was effective June 1, 2016.

On July 14, 2016, NYSOH received documentation confirming that you want your insurance broker, [REDACTED], to act as your Authorized Representative for all matters related to your NYSOH account, including the appeal hearing.

On January 3, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your Authorized Representative, [REDACTED], also attended the hearing. The record was developed during the hearing and closed at the end of the hearing.

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Findings of Fact

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

- 1) Your daughter was born on [REDACTED].
- 2) You testified that you are only appealing your newborn daughter's disenrollment from her CHP plan as of June 30, 2016.
- 3) The record indicates that your youngest child was added to your NYSOH account on February 27, 2016. The application that was submitted that day indicates that she was a U.S Citizen, but she did not have a Social Security number because you were still in the process of applying for one.
- 4) The record reflects that NYSOH did not receive your newborn daughter's Social Security number until you provided your June 14, 2016 application.
- 5) Your newborn daughter was enrolled in her CHP plan beginning on March 1, 2016, when NYSOH backdated the start of her coverage from April 1, 2016 to March 1, 2016.
- 6) On June 3, 2016, NYSOH redetermined your newborn daughter's eligibility based on information contained in your account as of February 27, 2016. As a result of this redetermination, your newborn daughter was found eligible for Medicaid effective February 1, 2016.
- 7) You were enrolled in Medicaid, and coverage under an MMC plan as of your February 27, 2016 update to your application.
- 8) You testified that you anticipate filing your 2016 taxes with a tax filing status of married filing jointly, and would be claiming your two children as dependents.
- 9) Your final update to your June 14, 2016 application reflects that you and your spouse anticipated earning a total of \$58,000.00 during 2016, which was comprised of \$31,000.00 you expect to receive from your employer, [REDACTED], and \$27,000.00 your spouse expects to receive from his employer, [REDACTED].
- 10) You testified that you were seeking a reinstatement of your newborn daughter's CHP coverage at \$15.00 per month, effective July 1, 2016, since her pediatrician does not accept Medicaid.

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 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 (NY PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security number to provide the number but does not require an applicant's Social Security number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus

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coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The issue under review is whether NYSOH properly determined that your newborn daughter's eligibility for and enrollment in CHP terminated effective June 30, 2016.

NYSOH is required to determine whether individuals, including children, are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or social security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your newborn daughter was added to your NYSOH account on February 27, 2016. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a Social Security number because you were still in the process of applying for one.

In the eligibility determination issued on February 28, 2016 and the enrollment notice, also issued on February 28, 2016, you were advised that your newborn child's eligibility for CHP was only conditional, and that you needed to confirm her Social Security number before May 27, 2016. The record indicates that NYSOH did not receive her Social Security number before the May 27, 2016 deadline.

On June 4, 2016, NYSOH issued a disenrollment notice stating that your newborn daughter's CHP plan coverage would end effective June 30, 2016 because she was no longer eligible to remain enrolled in her current health insurance. The reasoning for your newborn daughter's disenrollment was not provided in the eligibility determination issued on that same day, but rather that she was eligible for Medicaid effective February 1, 2016.

As a result of your newborn daughter's disenrollment from her CHP plan, NYSOH used in the information contained in your account as of February 27, 2016 to issue a new determination at that time in order to prevent a gap in coverage. However, since you were enrolled in an MMC plan at that time, your newborn daughter's eligibility was redetermined based on information contained in your account as of February 27, 2016, which would have matched your Medicaid eligibility. Accordingly, she was erroneously found eligible for Medicaid coverage effective February 1, 2016, as reflected in the June 4, 2016 eligibility determination notice.

Therefore, the June 4, 2016 eligibility determination notice is no longer supported by the record and is **RESCINDED**.

The record reflects that you updated your application three times on June 14, 2016 in order to attempt to reenroll your newborn daughter in her CHP coverage at \$15.00 per month. The final update reflected that your anticipated income for 2016 was \$58,000.00 based on four-person household. However, since your newborn child had been erroneously found eligible for Medicaid effective February 1, 2016, despite a finding that she would have been eligible for CHP at \$15.00 per month, effective July 1, 2016, she remained enrolled in Medicaid under continuous coverage guidelines, specifically until February 28, 2017.

Since the record no longer supports that your newborn daughter was eligible for Medicaid effective February 1, 2016, the June 15, 2016, eligibility determination notice stating that your newborn daughter remained eligible for Medicaid until February 28, 2017 is also **RESCINDED**.

Furthermore, all subsequent determinations issued stating that your newborn daughter remained covered under Medicaid due to continuous coverage guidelines are also **RESCINDED**.

Your case is **REMANDED** to NYSOH to redetermine your newborn daughter's eligibility based on a four-person household with an annual household income of \$58,000.00 as of June 14, 2016, when you supplied her Social Security number.

Decision

The June 4, 2016 disenrollment notice is **MODIFIED** to reflect that your daughter was disenrolled from her CHP plan because you had not yet provided her Social Security number.

The June 4, 2016 eligibility determination notice is **RESCINDED**.

The June 15, 2016, eligibility determination notice is **RESCINDED**.

All determinations issued on or after June 15, 2016 stating that your newborn daughter remained covered under Medicaid due to continuous coverage guidelines until February 28, 2017 are also RESCINDED.

Your case is REMANDED to NYSOH to redetermine your newborn daughter's eligibility based on a four-person household with an annual household income of \$58,000.00 as of June 14, 2016, when you supplied her Social Security number.

Effective Date of this Decision: February 8, 2017

How this Decision Affects Your Eligibility

Your newborn daughter's CHP coverage at \$15.00 per month began effective March 1, 2016 and continued until June 30, 2016.

Your newborn daughter is not eligible for Medicaid effective February 1, 2016.

You will receive a new determination shortly to determine your newborn daughter's eligibility as of June 14, 2016 and, if applicable, a reinstatement of her CHP coverage effective July 1, 2016, at the applicable reduced premium level.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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

Summary

The June 4, 2016 disenrollment notice is MODIFIED to reflect that your daughter was disenrolled from her CHP plan because you had not yet provided her Social Security number.

The June 4, 2016 eligibility determination notice is RESCINDED.

The June 15, 2016, eligibility determination notice is RESCINDED.

All determinations issued on or after June 15, 2016 stating that your newborn daughter remained covered under Medicaid due to continuous coverage guidelines until February 28, 2017 are also RESCINDED.

Your case is REMANDED to NYSOH to redetermine your newborn daughter's eligibility based on a four-person household with an annual household income of \$58,000.00 as of June 14, 2016, when you supplied her Social Security number.

Your newborn daughter's CHP coverage at \$15.00 per month began effective March 1, 2016 and continued until June 30, 2016.

Your newborn daughter is not eligible for Medicaid effective February 1, 2016.

You will receive a new determination shortly to determine your newborn daughter's eligibility as of June 14, 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:

