



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: AP000000010264

[REDACTED]

[REDACTED]

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 15, 2016 eligibility determination.

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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NY State of Health Account ID: [REDACTED]
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Issue

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

Is your appeal of the start date of your sons' Child Health Plus (CHP) eligibility and coverage valid?

Procedural History

On June 3, 2016, you created your NY State of Health (NYSOH) account and applied for financial assistance for your sons.

On June 4, 2016, NYSOH issued a notice of eligibility determination, based on your June 3, 2016 application, stating that your sons were eligible to enroll in CHP for a limited time with a \$9.00 monthly premium each, effective July 1, 2016. The notice further stated that you needed to provide documentation of their citizenship status and Social Security numbers before September 1, 2016.

On June 14, 2016, you updated your NYSOH account and selected a CHP plan for enrollment for your sons.

That same day, you spoke to NYSOH's Account Review Unit and appealed the start date of your sons' CHP eligibility and plan, insofar as they did not begin June 1, 2016.

On June 15, 2016, NYSOH issued a notice of enrollment, based on your plan selection on June 14, 2016, stating that your sons were enrolled in a CHP plan, and that their enrollment in the plan would start July 1, 2016.

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On July 13, 2016, NYSOH issued a notice stating that your sons' coverage in their CHP plan was canceled effective July 1, 2016 because a premium payment was not received by their CHP plan.

On December 21, 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) You testified that you are appealing only on behalf of your sons.
- 2) You submitted an application to NYSOH for financial assistance on June 3, 2016.
- 3) Your sons were found eligible for CHP as of July 1, 2016, and they were enrolled into a CHP plan with a July 1, 2016 start date.
- 4) You testified that your sons previously had Medicaid coverage through your local Department of Social Services.
- 5) You testified that you did not know that your sons' Medicaid coverage was ending on May 31, 2016.
- 6) You testified that your son [REDACTED] in early June 2016, and you found out that his insurance coverage had ended.
- 7) You testified that you applied for health insurance for your sons in early June 2016 with the assistance of someone at the hospital.
- 8) You testified that you are only looking for coverage for your sons for the month of June 2016 to cover your younger son's medical bills.
- 9) You testified that you were able to get health insurance coverage for your sons through your employer as of July 1, 2016, so you did not pay the July 2016 premium for their CHP coverage.
- 10) Your NYSOH account reflects that your sons were terminated from their CHP coverage effective July 1, 2016 for nonpayment of premium.

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

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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, 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 issue originally under appeal was whether NYSOH properly determined that your sons' eligibility for and enrollment in CHP properly began on July 1, 2016.

However, after you filed your appeal, your sons were terminated from their CHP plan for nonpayment of the premium, effective July 1, 2016. Therefore, your sons

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never had active CHP coverage, and do not have CHP coverage now. You acknowledged in your testimony that your children never had CHP coverage, as you enrolled them in health insurance through your employer as of July 1, 2016.

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 for 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 sons were properly terminated from their CHP plan for nonpayment of premiums. Likewise, we therefore lack the authority to make a determination that your sons should be placed back into the plan from which they were terminated for nonpayment of premiums. In addition, since your sons' CHP coverage never actually went into effect, there is no active enrollment that could be backdated, even if they were eligible for an earlier start date to their coverage.

Even if they had remained enrolled in the CHP plan, since you did not apply for coverage through NYSOH until June 3, 2016, the earliest any coverage other than Medicaid could go into effect was July 1, 2016.

As such, the issue of the start date of your sons' CHP eligibility and coverage is no longer relevant and the issue cannot be addressed by the Appeals Unit. Since there is no other issue under review, your appeal is DISMISSED.

Decision

Your appeal with regard to the start date of your sons' eligibility for CHP coverage is DISMISSED.

Effective Date of this Decision: January 13, 2017

How this Decision Affects Your Eligibility

This decision does not change your sons' eligibility.

Since your sons' CHP coverage was terminated for nonpayment and was never active, the issue of whether the coverage could have been backdated is irrelevant, and cannot be addressed by NYSOH.

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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- By fax: 1-855-900-5557

Summary

Your appeal with regard to the start date of your sons' eligibility for CHP coverage is **DISMISSED**.

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This decision does not change your sons' eligibility.

Since your sons' CHP coverage was terminated for nonpayment and was never active, the issue of whether the coverage could have been backdated is irrelevant, and cannot be addressed by NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

