



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

Notice of Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010507

[REDACTED]

[REDACTED]

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 17, 2016 eligibility determination and the June 25, 2016 enrollment confirmation 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.

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 page intentionally left blank.



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

Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010507



Issue

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

Did NY State of Health (NYSOH) properly determine that your child was disenrolled from her Child Health Plus (CHP) plan, effective May 31, 2016, and was not re-enrolled until August 1, 2016, resulting in a gap in coverage during the months of June and July 2016?

Procedural History

On April 23, 2015, NYSOH issued a notice of eligibility determination, based on your April 23, 2015 application, stating that your child was eligible for CHP, with a \$45.00 monthly premium, effective June 1, 2015. Your child was subsequently enrolled in a CHP plan.

On April 15, 2016, NYSOH issued a notice that it was time to renew your child's health insurance. 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 May 15, 2016, or your child might lose the financial assistance she was currently receiving.

No updates were made to your account by May 15, 2016.

On May 17, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not

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).

enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your child's renewal within the required time frame.

Also on May 17, 2016, NYSOH issued a disenrollment notice stating that your child's enrollment in her CHP plan was ending, effective May 31, 2016.

On June 24, 2016, NYSOH received your child's updated application for health insurance. That day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible to enroll in a full price CHP or child-only qualified health plan, effective August 1, 2016.

Also on June 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan, insofar as it did not begin June 1, 2016.

On June 25, 2016, NYSOH issued a notice of eligibility determination, based on your June 24, 2016 application, stating that your child was eligible to enroll in a full price CHP or child-only qualified health plan, effective August 1, 2016.

Also on June 25, 2016 NYSOH issued a notice of enrollment, based on your plan selection on June 24, 2016, stating that your child was enrolled in a CHP plan, and that coverage would start on August 1, 2016.

On January 6, 2017, 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, and the record reflects, that you receive email alerts regarding notices in your NYSOH account.
- 2) You testified that the email alerts are usually regarding a notice that has to do with a change in terms or something unimportant, so you generally ignore them.
- 3) You testified that you regularly check the email address that is on record with NYSOH, but that you receive hundreds of emails a day.
- 4) You testified that you enrolled to receive email alerts because you receive a lot of regular postal mail that has to be sorted out.

- 5) You testified that you do not regularly log into your NYSOH account.
- 6) You testified that you do not know if you received an email alert regarding the April 15, 2016 renewal notice, but that you never saw the renewal notice.
- 7) You testified that you did not think you had to renew your child's coverage, and that you assumed that it would automatically renew "like any other insurance."
- 8) You testified that you are not sure how you realized that your child had been disenrolled from her CHP plan, but that your daughter's doctor's office may have alerted you to this fact.
- 9) You testified that you contacted NYSOH as soon as you found out that your child's coverage had been terminated, but that NYSOH informed you that you had missed a renewal notice and would need to appeal if you wanted to try to get your child's coverage backdated.
- 10) The record reflects that on June 24, 2016, NYSOH received your child's updated application for health insurance.
- 11) You testified that you are seeking for your child to be reinstated in her CHP coverage for the months of June and July 2016 because you paid out of pocket for medical expenses and would like to be reimbursed.

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 CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] and other insurance affordability programs as family circumstances

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).

change and avoids gaps or overlaps in coverage,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

The State of New York has provided that a child’s period of eligibility for CHP begins on the first day of the month during which a child is eligible. The State of New York will furnish benefits by 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).

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).

In addition, where an application for recertification of CHP coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH’s request, shall the child or children be disenrolled from CHP (NY Public Health Law § 2511(2)(j)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was disenrolled from her CHP plan, effective May 31, 2016, and was not re-enrolled until August 1, 2016, resulting in a gap in coverage during the months of June and July 2016.

Your child was originally found eligible for CHP and enrolled effective June 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP once every twelve months without requiring information from the individual, if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's April 15, 2016 renewal notice stated that there was not enough information to determine whether your child was eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by May 15, 2016, or her financial assistance might end.

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).

You testified that you do not know whether you received a renewal notice telling you that you needed to update your application in order to renew your child's coverage because you receive many emails from NYSOH that are unimportant, and so you rarely log into your NYSOH account when you receive an email alert. As a result, you did not submit an updated application prior to May 15, 2016.

The record indicates that your child was then disenrolled from her CHP plan because you did not respond to the renewal notice. Your child's eligibility and enrollment subsequently ended on May 31, 2016.

However, under the presumptive eligibility rule, your child should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning June 1, 2016. This is because, when a child or children are being automatically recertified for CHP, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two month window within which to provide sufficient documentation.

Since the end date of the previous 12 month policy period of your child's eligibility for and enrollment in CHP was May 31, 2016, your child should have been determined presumptively eligible from June 1, 2016 through July 31, 2016, so as to avoid a gap in her CHP coverage for the upcoming policy period, and to allow you to submit sufficient information to have her eligibility determined.

Therefore, the May 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in CHP for two months, pending your completion of her recertification.

The June 25, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of June 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP plan for the months of June and July 2016.

Decision

The May 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in CHP for two months, pending your completion of their recertification.

The June 25, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of June 1, 2016.

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).

Your case is RETURNED to NYSOH to reinstate your child in her CHP plan for the months of June and July 2016.

Effective Date of this Decision: January 11, 2017

How this Decision Affects Your Eligibility

Your child should have been given two months of CHP presumptive eligibility, effective June 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the months of June and July 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)).

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

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).

- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 17, 2016 eligibility determination notice is MODIFIED to state that your child was presumptively eligible to remain in CHP for two months, pending your completion of their recertification.

The June 25, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan was effective as of June 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP plan for the months of June and July 2016.

Your child should have been given two months of CHP presumptive eligibility, effective June 1, 2016.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the months of June and July 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

