



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

Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010696

[REDACTED]

Dear [REDACTED],

On January 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 23, 2016 disenrollment notice and the July 6, 2016 enrollment confirmation notice regarding your nineteen-year-old child.

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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Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
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[REDACTED]

Issue

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

Did NY State of Health properly determine your nineteen-year-old child's Child Health Plus plan should have ended as of June 30, 2016 and his financial assistance and enrollment in your family's silver-level qualified health plan should have begun August 1, 2016?

Procedural History

On March 10, 2016, NY State of Health (NYSOH) issued a letter confirming your children's enrollment, including your nineteen-year-old child, in a Child Health Plus (CHP) plan with a monthly premium responsibility of \$45.00, effective April 1, 2016.

On May 22, 2016, NYSOH issued an eligibility redetermination notice stating that your nineteen-year-old child was newly eligible to share in up to \$717.00 per month in advance payment of the premium tax credits (APTC) and, if he selected a silver-level qualified health plan (QHP), was newly eligible for cost-sharing reductions (CSR). This eligibility was effective July 1, 2016.

On May 23, 2016, NYSOH issued a disenrollment notice stating that your nineteen-year-old child's CHP plan would be terminated effective June 30, 2016. This was because he was no longer eligible to remain enrolled in his current health insurance.

Also on May 23, 2016, NYSOH issued a letter confirming that you and your spouse were enrolled in a silver-level QHP with a monthly premium responsibility of \$463.00, after your APTC of \$478.00 was applied, effective January 1, 2016. That notice also stated that your nineteen-year-old child's coverage with a QHP will not begin until you pick a plan.

On June 24, 2016, NYSOH received your nineteen-year-old child's updated application and QHP selection.

Also on June 24, 2016, NYSOH prepared a preliminary redetermination finding in part that your nineteen-year-old child's financial assistance eligibility and enrollment in your family's silver-level QHP would begin on August 1, 2016.

On June 25, 2016, NYSOH issued an eligibility redetermination notice, based on the June 24, 2016 updated application, stating that your nineteen-year-old child was newly eligible to share up to \$717.00 per month in APTC and, if he selected a silver-level QHP, was newly eligible for CSR. This eligibility was effective July 1, 2016.

On July 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as it began your nineteen-year-old child's financial assistance eligibility and enrollment in your family's Silver-Level QHP on August 1, 2016 and not July 1, 2016.

On July 6, 2016, NYSOH issued a letter confirming your nineteen-year-old child's enrollment in your family's silver-level QHP with a monthly premium responsibility of \$825.00, after your family's APTC of \$717.00 was applied, effective August 1, 2016.

On January 4, 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 supports the following findings of fact:

- 1) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that your nineteen-year-old child aged out of CHP coverage and was terminated from his plan on June 30, 2016 and was not re-enrolled into your family's silver-level QHP until August 1, 2016, resulting in a gap in coverage for the month of July 2016.

- 3) According to your NYSOH account and your testimony, your oldest child turned 19 years old on June 29, 2016.
- 4) You testified that you did not receive any electronic alerts in your NYSOH account regarding your nineteen-year-old child's disenrollment from his CHP plan or your need to select a QHP on his behalf.
- 5) You testified that you did not know you needed to updated your nineteen-year-old child's account and enroll him in your family's silver-level QHP until he was injured in June 2016 and was advised by his doctor that his policy was about to cancel.
- 6) According to your NYSOH account, NYSOH received your nineteen-year-old child's enrollment in your family's silver-level QHP on June 24, 2016.
- 7) You testified that you are seeking to have your nineteen-year-old child's coverage in your family's silver-level QHP to begin on July 1, 2016 to cover the cost of medical expenses incurred that month.

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 under the age of nineteen may be eligible for subsidized coverage through CHP provided (1) he or she lives in a household having a household income at or below 400% of the FPL; (2) is not eligible for medical assistance; (3) is not eligible for coverage under the public employees' state health benefits plan, and (4) is a resident of New York State (NY Public Health Law § 2511(2)(a-e)).

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 premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, reaches the age of 19 or becomes eligible for Medicaid (NY Public Health Law § 2510(6)). Children who "age out" of CHP are disenrolled from the health plan on the last day of the month in which they reach 19 years of age (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014, 42 CFR § 457.350).

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“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 change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

When eligibility is denied, suspended or terminated, the State must provide written notice of any determinations subject to review that includes the reasons for the determination, an explanation of applicable rights to review of that determination, the standard and expedited time frames for review, the manner in which a review can be requested, and the circumstances under which enrollment may continue pending review (42 CFR § 457.1180). In the case of a suspension or termination of eligibility, the State must provide sufficient notice to enable the child's parent or caretaker to take any appropriate actions that may be required to allow coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Electronic Notices

If the individual elects electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether or not your nineteen-year-old child's CHP plan should have ended as of June 30, 2016 and his financial assistance and enrollment in your family's silver-level QHP should have begun August 1, 2016.

The record reflects that your oldest child was enrolled in CHP as of April 1, 2016, at which time he was eighteen years old.

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Since the period of your oldest child's CHP eligibility began on April 1, 2016, ordinarily it would continue for 12 months after that date unless an event occurred to disqualify him from CHP eligibility. Reaching the age of 19 is one such disqualifying event. The record reflects that your child turned 19 years old on [REDACTED]. Children who "age out" of CHP are terminated from the health plan on the last day of the month in which they reach 19 years of age. Therefore, your child was no longer eligible for CHP as of the last day of the month in which he turned nineteen years of age, which was June 30, 2016.

As a result, on May 22, 2016, NYSOH issued an eligibility redetermination notice stating that your nineteen-year-old child was newly eligible to share in your family's APTC and CSR, effective July 1, 2016. Also on May 23, 2016, NYSOH issued disenrollment and enrollment confirmation notices stating in part that your nineteen-year-old child's CHP plan would be terminated effective June 30, 2016 and his coverage in a QHP will not begin until you pick a plan for him.

Because you did not respond to these notices and update your nineteen-year-old child's account until June 24, 2016, his eligibility for financial assistance and enrollment in your family's silver-level QHP did not begin until August 1, 2016.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding your nineteen-year-old child's disenrollment from his CHP plan or the notices that stated you needed to update his account and select a plan, in order for him to begin new coverage in July 2016. Additionally, there is no evidence in your account documenting that any email alert was sent to you regarding the need to update his application and select a QHP.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your nineteen-year-old child's account.

You first selected your child's QHP and updated his eligibility for financial assistance through NYSOH for 2016 on June 24, 2016 and, therefore, we must assume that this is the information that would have been used had you been timely informed of the need to update your account.

Therefore, the May 23, 2016 disenrollment notice is **AFFIRMED**.

The June 25, 2016 eligibility redetermination notice is **AFFIRMED**.

The July 6, 2016 enrollment confirmation notice is **MODIFIED** to state that your nineteen-year-old child's financial assistance and enrollment in your family's silver-level QHP is effective July 1, 2016.

Decision

The May 23, 2016 disenrollment notice is AFFIRMED.

The June 25, 2016 eligibility redetermination notice is AFFIRMED.

The July 6, 2016 enrollment confirmation notice is MODIFIED to state that your nineteen-year-old child's financial assistance and enrollment in your family's Silver-Level QHP is effective July 1, 2016.

Your case is RETURNED to NYSOH to effectuate the changes listed above and to notify you accordingly.

Effective Date of this Decision: February 22, 2017

How this Decision Affects Your Eligibility

Your nineteen-year-old child's enrollment in your family's silver-level QHP, and his eligibility for APTC should have begun as of July 1, 2016.

Your case is being sent back to NYSOH to change your nineteen-year-old child's enrollment date to July 1, 2016. NYSOH will notify you once this has been completed.

You will be responsible for the any additional QHP premium payment for the month of July 2016.

Your nineteen-year-old child's eligibility to share in monthly APTC with your family is effective July 1, 2016.

Your nineteen-year-old child's enrollment in your family's silver-level QHP is effective 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.

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Additionally, Appeals Unit decisions on issues involving eligibility for QHPs, advance premium tax credits, and CSR 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The May 23, 2016 disenrollment notice is **AFFIRMED**.

The June 25, 2016 eligibility redetermination notice is **AFFIRMED**.

The July 6, 2016 enrollment confirmation notice is **MODIFIED** to state that your nineteen-year-old child's financial assistance and enrollment in your family's Silver-Level QHP is effective July 1, 2016.

Your case is **RETURNED** to NYSOH to effectuate the changes listed above and to notify you accordingly.

Your nineteen-year-old child's enrollment in your family's silver-level QHP, and his eligibility for APTC should have begun as of July 1, 2016.

Your case is being sent back to NYSOH to change your nineteen-year-old child's enrollment date to July 1, 2016. NYSOH will notify you once this has been completed.

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You will be responsible for the any additional QHP premium payment for the month of July 2016.

Your nineteen-year-old child's eligibility to share in monthly APTC with your family is effective July 1, 2016.

Your nineteen-year-old child's enrollment in your family's silver-level QHP is effective 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:

