



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

Notice of Decision

Decision Date: February 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010756

[REDACTED]

Dear [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 9, 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).

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010756



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 children's enrollment in their Child Health Plus (CHP) plan was effective August 1, 2016?

Procedural History

On June 30, 2015, NYSOH issued a notice of eligibility determination stating that your children were eligible for Medicaid effective June 1, 2015.

On April 13, 2016, NYSOH issued a notice that it was time to renew your health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you would qualify for financial help paying for your health coverage, and that you needed to update your account by May 15, 2016, or you might lose the financial assistance you were currently receiving.

On April 22, 2016, NYSOH received your updated application for health insurance.

On April 23, 2016, NYSOH issued an eligibility redetermination notice stating that your children were eligible for CHP at a monthly cost of \$15.00 each, effective June 1, 2016. The notice also directed you to select a CHP plan for your children.

That same day, NYSOH issued a disenrollment notice stating that your children's coverage in their Medicaid Managed Care plan was ending as of May 31, 2016.

Also on April 23, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment, and your wife's enrollment, in a health plan, and stating that your children's CHP coverage would not begin until you picked a plan.

On July 8, 2016, you selected a CHP plan for your children.

That same day, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their CHP plan, insofar as it began on August 1, 2016 and not July 1, 2016.

On July 9, 2016, an enrollment confirmation notice was issued that stated that you had selected a CHP Plan, and the effective date of that plan was August 1, 2016.

On January 20, 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) Your NYSOH account reflects, that you receive all of your notices from NYSOH by regular mail.
- 2) No notices sent to you at the address listed on your NYSOH account have been returned as undeliverable.
- 3) You testified that you do not recall if you received the April 23, 2016 notice informing you that your children were eligible for CHP, and that you needed to pick a plan.
- 4) You testified that you did recall receiving a letter, and being notified either in writing or on the phone, that your children were eligible for CHP with a \$15.00 monthly premium, but that you were not sure when this occurred.
- 5) You testified that you thought you spoke with someone around the time you received this letter and told them that you wanted your children to remain in their Fidelis plan.

- 6) You testified that you thought you enrolled your children in a plan when you renewed your coverage.
- 7) You testified that you were not aware that there was any lapse in your children's coverage, and that you do not recall what prompted you to select a CHP plan for them in July 2016.
- 8) You testified that you have medical bills from July 2016 for your children that are unpaid.
- 9) After the hearing, the Hearing Officer requested any phone recordings between your household and NYSOH for the months of April and May 2016.
- 10) The Hearing Officer listened to the recording from April 22, 2016 (when your family's application for health coverage was renewed), in its entirety. The following findings of fact are taken from this recording:
 - a. Your spouse, [REDACTED], initiated this phone call and spoke with NYSOH for its duration;
 - b. Your spouse stated that he was calling because NYSOH had incorrect income information, and because he got a letter that he needed to pick a plan for himself and his spouse;
 - c. The NYSOH representative updated your application for health insurance during the phone call;
 - d. The NYSOH representative informed your spouse that he was eligible for a tax credit, to be shared with you;
 - e. The NYSOH representative did not mention your children's eligibility;
 - f. Your spouse spent time going over qualified health plans with the NYSOH representative, and selected a plan for coverage for the two of you;
 - g. Your spouse did not make any inquiries regarding your children's coverage or plan enrollment.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH

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must make its “redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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 under review is whether NYSOH properly determined that your children’s enrollment in their CHP plan was effective August 1, 2016.

Your children were originally found eligible for Medicaid effective June 1, 2015.

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Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 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 13, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by May 15, 2016, or their financial assistance might end.

On April 22, 2016, your application was updated, and your children were found eligible for CHP, effective June 1, 2016. On July 8, 2016, you selected a CHP plan for your children, and their plan started on August 1, 2016.

You testified that you thought you recalled telling NYSOH that you wanted your children to remain in an Affinity plan when you renewed your application for coverage in April 2016. You testified that you remembered finding out that they were eligible for coverage for \$15.00 a month, and that you thought you picked a plan for them.

After the hearing, the Hearing Officer reviewed the recording of the phone call on April 22, 2016 in which your account was updated. Your spouse, [REDACTED], was the one who initiated this call with NYSOH, and he told the NYSOH representative that he was calling because NYSOH had incorrect income information, and because he had received a notice that he needed to pick a plan for himself and his spouse. He did not mention your children. During the call, the NYSOH representative updated your NYSOH application, informed your spouse that you and he were eligible for tax credits, and assisted your spouse in selecting a plan. The NYSOH representative did not inform your spouse of your children's eligibility in that call, nor did she review plan options for your children.

Nevertheless, on April 23, 2016, NYSOH issued an eligibility determination stating that your children were eligible for CHP, and that you needed to select a plan. Additionally, NYSOH issued another notice that same day which confirmed the plan selection your spouse had made for coverage for the two of you, and which stated that you needed to select a plan for your children.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of the need to select a CHP plan for your children. Additionally, the record contains no evidence to show that a plan selection was made at any point prior to July 2016.

The record shows that on July 8, 2016, you selected a CHP plan for your children.

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The date on which a CHP 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.

Therefore, the July 9, 2016 enrollment confirmation notice stating that your children's enrollment in their CHP plan was effective August 1, 2016, is correct and must be AFFIRMED.

Decision

The July 9, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 17, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The effective date of your children's enrollment in their CHP plan was August 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.

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)).

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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

The July 9, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

The effective date of your children's enrollment in their CHP plan was August 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:

