



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

Notice of Decision

Decision Date: January 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011028

[REDACTED]

[REDACTED]

On December 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 24, 2016 enrollment 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 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 § 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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Decision

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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:

Did NY State of Health (NYSOH) properly determine that your child's enrollment in her Child Health Plus plan was effective September 1, 2016?

Procedural History

On September 16, 2015, NYSOH issued a notice of eligibility determination, based on your September 15, 2015 application, stating that your child remained eligible for Medicaid. This eligibility determination was effective September 1, 2015.

On June 3, 2016, NYSOH issued a notice stating that it was time to renew your family's health insurance. Based on information about you from state and federal data sources as of June 2, 2016, your child was found eligible for CHP with a premium of \$9.00 per month, effective August 1, 2016. The notice also stated that you needed to select a new plan for your child between June 16, 2016 and July 15, 2016 to continue your child's coverage since they were no longer eligible to remain in their current plan.

On June 16, 2016, NYSOH reran your daughter's eligibility based on the information contained in your account as of June 16, 2016.

On June 17, 2016, NYSOH issued an eligibility determination notice stating that your child was found eligible for CHP with a premium of \$9.00 per month,

effective August 1, 2016. This notice instructed you to select a plan for your daughter's coverage.

Also on June 17, 2016, NYSOH issued a disenrollment notice stating that your daughter's Medicaid fee-for-service coverage would end effective July 31, 2016.

On July 24, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan as of July 23, 2016 for your daughter's coverage, which would be effective September 1, 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 August 1, 2016.

On December 14, 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, and the record reflects, that you receive alerts regarding notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to select a plan to continue your daughter's coverage as of August 1, 2016.
- 3) You testified that you did not know that you needed to update your account until you had later received a disenrollment notice that your daughter's Medicaid fee-for-service coverage had been terminated as of July 31, 2016.
- 4) The record reflects that on June 23, 2016, you selected a CHP plan for your daughter's coverage.
- 5) You testified that you are seeking that your child be enrolled in her CHP plan as of August 1, 2016, due to out-of-pocket medical expenses you incurred for your child's coverage during the month of August 2016.

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

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child’s enrollment in her CHP plan was effective August 1, 2016.

Your child was originally found eligible for Medicaid effective September 1, 2015

NYSOH's June 3, 2016 renewal notice stated that your child was found eligible for CHP at \$9.00 per month, effective August 1, 2016, and instructed you to select a CHP plan as soon as possible to avoid a lapse in coverage.

The record reflects that your child was disenrolled from her Medicaid fee-for-service coverage effective July 31, 2016. The record further reflects that you did not select a CHP plan until June 23, 2016, when you stated that you reviewed the disenrollment notice.

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 the renewal notice, which directed you to select a CHP plan on behalf of your child for their coverage to continue effective August 1, 2016. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's application, or that any such notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to select a CHP plan on your child's behalf for coverage to begin effective August 1, 2016.

You first selected your child's CHP plan through NYSOH on June 23, 2016, and therefore we must assume that this selection would have been made had you been timely informed of the need to select a CHP plan through your NYSOH account, as stated in the renewal notice.

Therefore, the June 24, 2016 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective August 1, 2016.

Your case is RETURNED to NYSOH to enroll your child in her CHP plan effective August 1, 2016. You will be responsible for remitting the premium for August 2016 coverage to the insurance carrier.

Decision

The June 24, 2016 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective August 1, 2016.

Your case is RETURNED to NYSOH to enroll your child in her CHP plan effective August 1, 2016. You will be responsible for remitting the premium for August 2016 coverage to the insurance carrier.

Effective Date of this Decision: January 12, 2017

How this Decision Affects Your Eligibility

Your child's enrollment in their CHP plan should have been effective as of 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)).

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
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NY State of Health Appeals
P.O. Box 11729
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Summary

The June 24, 2016 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective August 1, 2016.

Your case is RETURNED to NYSOH to enroll your child in her CHP plan effective August 1, 2016. You will be responsible for remitting the premium for August 2016 coverage to the insurance carrier.

Your child's enrollment in their CHP plan should have been effective as of 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:



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