



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

Notice of Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011383

[REDACTED]

Dear [REDACTED],

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 1, 2016 eligibility determination notices and July 20, 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 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).

This page intentionally left blank.



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

Decision

Decision Date: January 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011383



Issue

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

Did NY State of Health properly determine that your three sons' enrollment in their Child Health Plus plan was effective September 1, 2016?

Procedural History

On July 1, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your June 30, 2016 application, stating that your daughter was eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective August 1, 2016. This same notice also stated that your oldest son and youngest son were eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2016. This was because your oldest son and youngest son were covered by other health insurance.

Also on July 1, 2016, NYSOH issued a notice of eligibility determination stating that your middle son did not qualify for Medicaid through NYSOH, for coverage through Child Health Plus or the Essential Plan, to receive premium tax credits or cost sharing reductions, or to purchase a qualified health plan. This was because, based on his health needs, his insurance application had been referred to the local Department of Social Services for further determination.

On July 19, 2016, NYSOH redetermined your children's eligibility for financial assistance with health insurance.

On July 20, 2016 NYSOH issued a notice of eligibility determination stating that your four children were eligible to enroll in a Child Health Plus plan with a \$9.00 per child monthly premium, effective September 1, 2016.

Also on July 20, 2016 NYSOH issued a notice of enrollment stating that your children were enrolled in a Child Health Plus plan, and that this enrollment in the plan would start August 1, 2016 (sic).

On August 10, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your three sons' Child Health Plus plan insofar as it did not begin August 1, 2016.

On January 17, 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) You testified that you are appealing only your sons' enrollment start date.
- 2) You submitted an application to NYSOH for financial assistance on June 30, 2016.
- 3) A review of the phone recording of your June 30, 2016 call to NYSOH reveals that on June 30, 2016 you updated your children's application for health insurance. During that phone call you indicated that you wanted all your children to be under the same account so you could take advantage of the premium cap for those families with more than three children. At no time during that phone call were you asked nor did you represent, that your middle son required nursing home care. You were advised at that time that your sons could not enroll in Child Health Plus through NYSOH as they were showing as having coverage outside of NYSOH. You were provided with no additional information at that time of further steps you would need to take in order to enroll your sons through NYSOH.
- 4) The record reflects that at that time, your three sons were enrolled in a Child Health Plus plan outside of NYSOH from July 1, 2015 to June 30, 2016.
- 5) You testified that your three sons had previously been enrolled directly through their Child Health Plus plan.

- 6) You testified that your three sons' enrollment directly through their Child Health Plus plan ended on June 30, 2016.
- 7) You testified that your middle son does not have any disability or health issue and that this was notated in error.
- 8) The record reflects that when you updated your application on July 29, 2015 with an NYSOH representative, your middle son was listed as requiring nursing home care, and this information was carried over to June 30, 2016 application.
- 9) You testified, and the record reflects, that you enrolled your three sons into a Child Health Plus plan on July 19, 2016.
- 10) You testified that you need your three sons' Child Health Plus plan to begin on August 1, 2016 because they have medical bills from treatment received on [REDACTED].

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 e.g.

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).

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

Legal Analysis

The issue is whether NYSOH properly determined that your three sons' enrollment in their Child Health Plus plan was effective September 1, 2016.

The record reflects that you contacted NYSOH on June 30, 2016 to enroll all four of your children into a Child Health Plus plan under one account. However, you were only permitted to enroll your daughter into a Child Health Plus plan at that time.

The record reflects that your oldest son and youngest son were found ineligible for Child Health Plus when you contacted NYSOH on June 30, 2016, because the system was showing that your oldest son and youngest son had active coverage outside of NYSOH. However, the record also reflects that your sons' Child Health Plus plan outside of NYSOH ran from July 1, 2015 until June 30, 2016, therefore, your sons' coverage outside of NYSOH was ending the day you contacted NYSOH, and therefore should not have resulted in your oldest son and youngest son being found ineligible for Child Health Plus through NYSOH.

Additionally, your middle son was found ineligible to enroll through NYSOH because of his health needs. However, this was an error that was made on a previous application. When you updated your application on June 30, 2016, this error was carried over. You were not asked, nor did you indicate, whether your son was in need of nursing home care. You credibly testified that your son does not have a disability or suffer from a long term health issue.

Therefore, the July 1, 2016 eligibility determination notices are MODIFIED to state that your three sons are eligible for Child Health Plus, effective August 1, 2016.

The date on which a Child Health Plus 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.

Had you been permitted to select a Child Health Plus plan for enrollment for your three sons on June 30, 2016, your three sons' enrollment would have taken effect on the first day of the second month following June 2016; that is, on August 1, 2016.

Therefore, the July 20, 2016 enrollment confirmation notice stating that your three sons' enrollment in their Child Health Plus plan was effective August 1, 2016, is correct and must be AFFIRMED.

Your case is RETURNED to NYSOH to ensure that your three sons are enrolled in their Child Health Plus plan as of August 1, 2016.

Decision

The July 1, 2016 eligibility determination notices are MODIFIED to state that your three sons are eligible for Child Health Plus, effective August 1, 2016.

The July 20, 2016 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to ensure that your three sons are enrolled in their Child Health Plus plan as of August 1, 2016.

Effective Date of this Decision: January 26, 2017

How this Decision Affects Your Eligibility

Your three sons are eligible for Child Health Plus as of August 1, 2016.

The effective date of your children's Child Health Plus plan is 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 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).

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 July 1, 2016 eligibility determination notices are MODIFIED to state that your three sons are eligible for Child Health Plus, effective August 1, 2016.

Your three sons are eligible for Child Health Plus as of August 1, 2016.

The July 20, 2016 enrollment confirmation notice is AFFIRMED.

The effective date of your children's Child Health Plus plan is August 1, 2016.

Your case is RETURNED to NYSOH to ensure that your three sons are enrolled in their Child Health Plus plan 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:

