



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

Notice of Decision

Decision Date: January 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011416

[REDACTED]

Dear [REDACTED]

On December 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 12, 2016 enrollment notice and August 22, 2016 cancellation 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).

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Decision

Decision Date: January 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011416

[REDACTED]

Issue

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

Did the NY State of Health (NYSOH) properly determine that your child's enrollment in her Child Health Plus plan was effective no earlier than August 1, 2016?

Did NYSOH properly determine that your child's enrollment was cancelled effective August 1, 2016 for non-payment of premiums?

Procedural History

On April 14, 2016, NYSOH received documents by facsimile verifying your identity, which included a copy of your U.S. Passport.

On June 16, 2016, NYSOH received your completed application for health insurance.

On June 17, 2016, NYSOH issued an eligibility determination notice based on the information contained in your June 16, 2016 application, stating that your younger child [REDACTED] was eligible to enroll in Child Health Plus (CHP) with a \$9.00 monthly premium, effective August 1, 2016.

On August 11, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your younger child's Child Health Plus plan insofar as it did not begin effective April 1, 2016.

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On August 12, 2016, NYSOH issued an enrollment notice confirming your selection of a CHP plan for your daughter on August 11, 2016. This notice stated that your daughter's CHP coverage would begin effective September 1, 2016, provided the necessary premium was remitted to the insurance carrier.

On or about August 17, 2016, NYSOH took independent action to backdate your child's CHP coverage start date from September 1, 2016 to August 1, 2016. No notice was sent to you regarding this change.

On August 22, 2016, NYSOH issued a cancellation notice confirming that your child's CHP plan coverage was terminated effective August 1, 2016 for non-payment of premiums.

On December 29, 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 that you are only appealing the eligibility of your child, [REDACTED].
- 2) You testified that you spoke with an Institute for Family Health representative about signing your family up for insurance when you visited the hospital some time during March 2016.
- 3) You testified that you returned to the hospital to complete your application during April 2016 because you erroneously believed that your two daughters needed to be present when you enrolled them in a plan.
- 4) The record reflects that while an identity proofing form was provided to NYSOH on April 14, 2016, your application for financial assistance was not completed until June 16, 2016.
- 5) The record reflects that your child was found eligible to enroll in a CHP plan effective August 1, 2016. The record further reflects, however, that a CHP plan was not selected for your child's enrollment until August 11, 2016, which resulted in a CHP enrollment start date of September 1, 2016.
- 6) Your application reflects that on or about August 17, 2016, NYSOH took independent action to backdate the start of your child's CHP coverage from

September 1, 2016 to August 1, 2016. NO notice was sent to you regarding this change.

- 7) You testified that you need your child's CHP plan to begin on April 1, 2016 because you were seeking to cover medical expenses incurred by you for her care during the month of April 2016.
- 8) You testified that you were also seeking to appeal the cancellation of your daughter's CHP coverage as of August 1, 2016 since you had never received a bill from the insurance carrier.

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

Legal Analysis

The first issue is whether NYSOH properly determined that your child's enrollment in her CHP plan was effective no earlier than August 1, 2016.

You testified that you believed that you had submitted a completed application during the month of April 2016.

The credible evidence of record reflects that your application was completed on June 16, 2016. As a result of this completed application, your child was found eligible for CHP coverage at \$9.00 per month. The record further reflects that you selected a CHP plan for your child's coverage on August 11, 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.

Therefore, the August 12, 2016 enrollment notice stating that your child's enrollment in her CHP plan would be effective September 1, 2016, was correct.

However, NYSOH subsequently independently backdated the start date of your child's CHP coverage to begin effective August 1, 2016, without sending any notice to you regarding this change.

Therefore, the Appeals Unit of NYSOH find that the start date of your daughter's coverage was August 1, 2016, but that NYSOH failed to give you the proper notice of this change.

The August 12, 2016 notice of enrollment is MODIFIED to reflect that your youngest child's enrollment was effective August 1, 2016, consistent with the actions later taken by NYSOH.

The second issue under review is whether NYSOH properly determined that your child's enrollment was cancelled effective August 1, 2016 for non-payment of premiums.

You testified that you were not aware that your child's enrollment had been cancelled effective August 1, 2016 since you had not received a bill from the insurance carrier. You further testified that you do not recall NYSOH notifying you that your child's CHP coverage had been backdated by one month to August 1, 2016, nor is there any indication in NYSOH's records that any such notice was given.

The Appeals Unit finds that NYSOH backdated your child's CHP coverage on or about August 17, 2016, did not advise you of this change, and then cancelled eight days later on August 22, 2016 for non-payment of premiums for coverage for August 2016. You were not given sufficient notice that any part of your request was granted, and therefore were not given enough time to pay the premium.

Accordingly, the August 22, 2016 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP coverage as of August 1, 2016, provided that the necessary CHP premiums are paid to the insurance carrier.

Decision

The August 12, 2016 enrollment notice is MODIFIED to reflect that your youngest child's enrollment in her CHP plan was effective August 1, 2016.

The August 22, 2016 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP coverage as of August 1, 2016, provided that the necessary CHP premiums are paid to the insurance carrier.

Effective Date of this Decision: January 24, 2017

How this Decision Affects Your Eligibility

The effective date of your child's CHP plan is August 1, 2016, and she will be reenrolled on her coverage if the premiums are paid.

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.

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).

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

Summary

The August 12, 2016 enrollment notice is MODIFIED to reflect that your youngest child's enrollment in her CHP plan was effective August 1, 2016.

The August 22, 2016 cancellation notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP coverage as of August 1, 2016, provided that the necessary CHP premiums are paid to the insurance carrier.

The effective date of your child's CHP plan is August 1, 2016, and she will be reenrolled on her coverage if the premiums are paid.

Legal Authority

We are issuing this determination in accordance with 45 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).

A Copy of this Decision Has Been Provided To:

