



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011458

[REDACTED]

On January 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 17, 2016 eligibility determination notice, the August 10, 2016 eligibility determination notice and the August 10, 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.

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Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011458

[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your three older children were disenrolled from their Child Health Plus plan effective July 31, 2016 and were not re-enrolled until September 1, 2016, resulting in a gap in coverage during the month of August 2016?

Did NY State of Health properly determine that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective September 1, 2016?

Procedural History

On May 9, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, stating that your oldest three children were eligible for Child Health Plus effective June 1, 2015, and that your youngest child would remain eligible for Medicaid, effective September 1, 2014. Your three older children were subsequently enrolled in a Child Health Plus plan and your youngest child remained enrolled in a Medicaid Managed Care plan.

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

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No updates were made to your account by July 15, 2016.

On July 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children were eligible to purchase a qualified health plan at full cost through NYSOH, effective August 1, 2016. This was because you had not responded to the renewal notice and had not completed your children's renewal within the required time frame. Your children's eligibility ended July 31, 2016.

On July 17, 2016 NYSOH issued a disenrollment notice stating that your three oldest children's enrollment in their Child Health Plus plan, and your youngest child's enrollment in his Medicaid Managed Care plan would end July 31, 2016.

On August 9, 2016, NYSOH received your children's updated application for health insurance.

On August 10, 2016, NYSOH issued a notice of eligibility determination, based on your August 9, 2016 application, stating that your four children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective September 1, 2016.

Also on August 10, 2016, NYSOH issued a notice of enrollment, based on your plan selection on August 9, 2016, stating that your four children were enrolled in a Child Health Plus plan and that coverage would start on September 1, 2016.

On August 15, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin August 1, 2016.

On January 10, 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, and the record reflects, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that you did not receive the June 15, 2016 renewal notice telling you that you needed to update your application in order to renew your children's coverage.

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- 3) You testified that you realized you needed to update your children's application for health insurance when you took your son to the doctor at the beginning of August 2016, and were advised that your child had no coverage.
- 4) You testified that you had been contacting your children's Child Health Plus plan to make payments every few months and paying several months in advance. You testified that after learning that your children had been disenrolled from their Child Health Plus plan you contacted the plan and were advised that your children's premiums were paid through November or December 2016.
- 5) You testified that you had a fire in September 2015 and were no longer residing at [REDACTED] however, you were still receiving mail at that address.
- 6) The record reflects that on August 15, 2016, you updated your mailing address to [REDACTED].
- 7) The record reflects that on August 9, 2016, NYSOH received your children's updated application for health insurance.
- 8) You testified that you are seeking to have your children be enrolled in their Child Health Plus plan as of August 1, 2016.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected

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eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR § 457.343).

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. The State of New York will furnish benefits by 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).

The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents needed to verify eligibility. Children may be enrolled presumptively for two months while the missing documentation is collected (see e.g. 42 CFR § 457.355; SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH’s request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

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Legal Analysis

The first issue under review is whether NYSOH properly determined that your three oldest children were disenrolled from their Child Health Plus plan effective July 31, 2016 and were not re-enrolled until September 1, 2016, resulting in a gap in coverage during the month of August 2016.

Your oldest three children were found eligible for Child Health Plus and enrolled effective June 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 June 15, 2016 renewal notice stated that there was not enough information to determine whether your three oldest children were eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by July 15, 2016, or their financial assistance might end.

You testified that you did not receive a renewal notice telling you that you needed to update your application in order to renew your children's coverage and as a result, you did not submit an updated application prior to July 15, 2016.

The record indicates that your oldest three children were then disenrolled from their Child Health Plus plan because you did not respond to the renewal notice. Your oldest three children's eligibility and enrollment subsequently ended on July 31, 2016.

However, under the presumptive eligibility rule, your oldest three children should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning August 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two-month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two-month window within which to provide sufficient documentation.

Since the end date of the previous 12 month policy period of your oldest three children's eligibility for and enrollment in Child Health Plus July 31, 2016, your three oldest children should have been determined presumptively eligible from August 1, 2016 through September 30, 2016 so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

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Therefore, the July 17, 2016 eligibility determination notice is MODIFIED to state that your three oldest children ([REDACTED]) were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The August 10, 2016 enrollment confirmation notice is MODIFIED to state that your oldest three children's ([REDACTED]) enrollment in their Child Health Plus plan was effective as of August 1, 2016.

The second issue under review is whether NYSOH properly determined that your youngest child's enrollment in his Child Health Plus plan was effective September 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for financial assistance with health insurance once every twelve 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 June 15, 2016 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by July 15, 2016, or their financial assistance might end.

Because there was no timely response to this notice, your youngest child was terminated from Medicaid and his Medicaid Managed Care plan effective July 31, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account on your youngest child's behalf. You testified, and your NYSOH account confirms, that you elected to receive notifications via regular mail.

You testified that you had a fire at your previous residence in September 2015 but that you were still receiving mail at this address. You did not update your mailing address until August 15, 2016. There is no evidence in the record that any of the notices that were sent to your previous mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you of your youngest child's annual renewal and that information in your NYSOH account needed to be updated in order to ensure your youngest child's eligibility for financial assistance would continue.

You first renewed your youngest child's eligibility for financial assistance through NYSOH for 2016 on August 9, 2016, and enrolled your youngest child into a Child Health Plus plan that day.

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 between 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, NYSOH's August 10, 2016 eligibility determination notice and enrollment confirmation notices are **AFFIRMED** insofar as they properly began your youngest child's ([REDACTED]) eligibility for and enrollment in Child Health Plus on September 1, 2016.

Decision

The July 17, 2016 eligibility determination notice is **MODIFIED** to state that your three oldest children ([REDACTED]) were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The August 10, 2016 eligibility determination notice is **AFFIRMED** insofar as it found your youngest child ([REDACTED]) eligible for Child Health Plus effective September 1, 2016.

The August 10, 2016 enrollment confirmation notice is **MODIFIED** to state that your three oldest children's ([REDACTED]) enrollment in their Child Health Plus plan was effective as of August 1, 2016, and **AFFIRMED** insofar as it found your youngest child ([REDACTED]) enrolled in his Child Health Plus plan effective September 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your oldest three children ([REDACTED]) in their Child Health Plus for the month of August 2016.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

Your oldest three children should have been given two months of Child Health Plus presumptive eligibility effective August 1, 2016.

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).

Your case is being sent back to NYSOH to reinstate your oldest three children into their Child Health Plus plan for the month of August 2016.

This decision does not change your youngest child's eligibility.

The effective date of your youngest child's Child Health Plus plan is September 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
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The July 17, 2016 eligibility determination notice is MODIFIED to state that your three oldest children (██) were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

Your oldest three children should have been given two months of Child Health Plus presumptive eligibility effective August 1, 2016.

The August 10, 2016 eligibility determination notice is AFFIRMED insofar as it found your youngest child (████████████████████) eligible for Child Health Plus effective September 1, 2016.

This decision does not change your youngest child's eligibility. The effective date of your youngest child's Child Health Plus plan is September 1, 2016.

The August 10, 2016 enrollment confirmation notice is MODIFIED to state that your three oldest children's (██) enrollment in their Child Health Plus plan was effective as of August 1, 2016, and AFFIRMED insofar as it found your youngest child (████████████████████) enrolled in his Child Health Plus plan effective September 1, 2016.

Your case is RETURNED to NYSOH to reinstate your oldest three children (██) in their Child Health Plus for the month of August 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

