



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

Notice of Decision

Decision Date: September 26, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011580

[REDACTED]

Dear [REDACTED],

On August 30, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 2016 disenrollment notice regarding your infant child.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: September 26, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011580

[REDACTED]

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 infant child was disenrolled from her Child Health Plus plan effective August 31, 2016 and was not re-enrolled until October 1, 2016, resulting in a gap in coverage during the month of September 2016?

Procedural History

On February 24, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating in part that your infant child was conditionally eligible for Child Health Plus, effective April 1, 2016. Her eligibility was conditioned upon you providing proof of her citizenship status and a valid Social Security Number before May 23, 2016. Your child was subsequently enrolled in a Child Health Plus plan with an April 1, 2016 start date.

The required information was not provided to NYSOH by the May 23, 2016 deadline.

On August 2, 2016, NYSOH issued an eligibility redetermination notice that stated, effective August 31, 2016, your infant child was no longer eligible to enroll in a qualified health plan through NYSOH because you did not provide the required information by the deadline.

Also on August 2, 2016, NYSOH issued a disenrollment notice that stated your infant child's coverage in her Child Health Plus plan was to end effective August 31, 2016, because you failed to timely submit the requested documents.

On August 19, 2016, you updated your NYSOH account and your infant child's eligibility was redetermined, effective October 1, 2016, with her health plan enrollment to resume as of that date.

Also on August 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin September 1, 2016.

On August 20, 2016, NYSOH issued a notice of eligibility determination, based on your August 19, 2016 updated application, stating in part that your infant child was eligible to enroll in Child Health Plus at full price, effective October 1, 2016.

Also on August 20, 2016, NYSOH issued a notice of enrollment, based on your plan selection on August 19, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on October 1, 2016.

On August 30, 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 all of your notices from NYSOH electronically, that is, by email alert.
- 2) You testified that you were unaware that you had to provide your infant child's citizenship documentation and her Social Security Number by a date certain; and, had you known, would have provided this information as it had always been readily available within a month of her birth on [REDACTED].
- 3) You testified that you did not receive any other notice that stated you needed to provide these proofs in order for your infant child's coverage to continue uninterrupted.
- 4) You testified that you did not receive any email alerts nor the August 2, 2016 eligibility redetermination and disenrollment notices in the mail telling you that your infant child's Child Health Plus coverage was to

end August 31, 2016, because you did not timely provide the required information by the deadline.

- 5) According to your NYSOH account and your testimony, after learning your child's coverage was to end August 31, 2016, on August 19, 2016, you provided NYSOH with your infant child's information and she was redetermined eligible for Child Health Plus with coverage to resume on October 1, 2016.
- 6) You testified that you are seeking to have your infant child's enrollment enrolled in her Child Health Plus plan to begin as of September 1, 2016, because she has medical issues that need immediately medical attention.

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by 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)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan was effective October 1, 2016.

The record reflects that you contacted NYSOH on February 24, 2016 and enrolled your child into a Child Health Plus plan, effective April 1, 2016. You testified that you were not aware that your child's eligibility for and enrollment in Child Health Plus was contingent upon you providing proof of her citizenship and a valid Social Security number by May 23, 2016. You further testified that, had you known of this condition, you would have timely complied since the information was readily available shortly after her birth.

Since you did not respond by May 23, 2016 and provide the required information, NYSOH redetermined your infant child to be ineligible to enroll in a qualified health plan and disenrolled her from her Child Health Plus plan, effective August 31, 2016, as stated in the August 2, 2016 eligibility redetermination and disenrollment notices.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically.

As such, NYSOH was required to post notices to your electronic account within one business day of notice generation. It was also required to send an e-mail or other electronic communication alerting you that a notice had been posted to your account.

The August 2, 2016 eligibility redetermination and disenrollment notices were posted to your account, but the record contains no evidence that NYSOH sent the required e-mail alerts to tell you that it was available in your account. The record also does not indicate whether, if the electronic notices were not

delivered, paper notices were sent by regular mail within three business days of the date of a failed electronic communication.

You credibly testified that you did not receive any electronic alert regarding the August 2, 2016 eligibility redetermination and disenrollment notices and only responded on August 19, 2016, after learning your infant child's coverage was about to end. There is no evidence in your account showing that any email alerts were sent to you regarding the your infant child's impending ineligibility and disenrollment, that any such electronic notices failed, or that the notices were later sent to you by regular mail.

Lacking such evidence, it is concluded that NYSOH did not give you the required notice to inform you that your infant child was about to be disenrolled from her Child Health Plus plan so that you could timely respond by the 15th of August 2016, and re-enroll her in a Child Health Plus plan for coverage effective September 1, 2016.

The record reflects that you updated your infant child's information on August 19, 2016. Therefore, we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the reason for your infant child being redetermined ineligible for and disenrolled from her Child Health Plus plan and so that you could provide the requisite proof by August 15, 2016, to avoid a gap in her health insurance coverage.

Had the information been submitted by August 15, 2016, your infant child's enrollment in her Child Health Plus plan would not have ended August 31, 2016, resulting in a gap in coverage for the month of September 2016.

Therefore, the August 20, 2016 eligibility redetermination and enrollment confirmation notices are MODIFIED to state that your infant child was eligible for Child Health Plus at full price and was enrolled in her Child Health Plus plan, both effective September 1, 2016.

Decision

The August 20, 2016 eligibility redetermination and enrollment confirmation notices are MODIFIED to state that your infant child was eligible for Child Health Plus at full price and was enrolled in her Child Health Plus plan, both effective September 1, 2016.

Your case is RETURNED to NYSOH to facilitate these changes and to notify you accordingly.

Effective Date of this Decision: September 26, 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).

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in Child Health Plus is effective September 1, 2016.

NYSOH will facilitate these changes, reinstate your child's coverage in to her Child Health Plus plan as of September 1, 2016, and notify you once this has been processed.

You will be responsible for the September 2016 monthly premium and monthly premiums going forward.

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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The August 20, 2016 eligibility redetermination and enrollment confirmation notices are MODIFIED to state that your infant child was eligible for Child Health Plus at full price and was enrolled in her Child Health Plus plan was effective September 1, 2016.

Your case is RETURNED to NYSOH to facilitate these changes and to notify you accordingly.

Your child's eligibility for and enrollment in Child Health Plus is effective September 1, 2016.

NYSOH will facilitate these changes, reinstate your child's coverage in to her Child Health Plus plan as of September 1, 2016, and notify you once this has been processed.

You will be responsible for the September 2016 monthly premium and monthly premiums going forward.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

