



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011618

[REDACTED]

Dear [REDACTED],

On January 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 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.

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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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 youngest child was dis-enrolled from her Medicaid Managed Care plan effective June 30, 2016 and, thereafter, was enrolled into Child Health Plus as of October 1, 2016, resulting in a gap in her coverage during the months of July 2016, August 2016 and September 2016?

Procedural History

Your youngest child was originally found eligible for Medicaid effective February 1, 2015 and was enrolled in a Medicaid Managed Care (MMC) plan, effective June 1, 2015.

On May 4, 2016, NYSOH issued a notice that it was time to renew your youngest child's health insurance for 2016. That notice stated in part that, based on information from federal and state sources, NYSOH could not make a decision about whether your youngest child would qualify for financial help paying for her health coverage, and that you needed to update your account between May 16, 2016 and June 15, 2016 or she might lose the financial assistance she was then currently receiving.

On June 3, 2016, NYSOH issued a notice of eligibility determination, based on your June 2, 2016 updated application, stating that your youngest child was eligible for a Qualified Health Plan at full cost effective July 1, 2016. That notice

also stated that you need to confirm your youngest child's plan selection no later than July 31, 2016.

On June 4, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her MMC plan would end, effective June 30, 2016.

On August 22, 2016, NYSOH received your youngest child's updated application for health insurance and preliminarily redetermined her eligible for Child Health Plus, effective October 1, 2016.

Also on August 22, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child Health Plus plan insofar as it did not begin July 1, 2016.

On August 23, 2016, NYSOH issued a notice of eligibility determination, based on your August 22, 2016 application, stating that your youngest child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective October 1, 2016.

Also on August 23, 2016, NYSOH issued a notice of enrollment, based on your plan selection on August 22, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on October 1, 2016.

On January 11, 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) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) According to your NYSOH account and your testimony, you updated your youngest child's application on June 2, 2016 and, by mistake, changed your application from needing financial assistance to a non-financial application.
- 3) According to your NYSOH account, this action resulted in your youngest child's eligibility being redetermined on a non-financial basis and her being found eligible to enroll in a qualified health plan, effective July 1, 2016.

- 4) You testified that you did receive the eligibility determination notice of June 3, 2016 stating that your child was eligible to enroll in qualified health plan at full cost or the June 4, 2016 disenrollment notice telling you that your youngest child would be terminated from her MMC plan effective June 30, 2016. You assumed these notices were a result of another NYSOH computer glitch.
- 5) You testified that after receiving the notices, you went online and checked to make sure your youngest child was covered. You believed she was covered because you pulled up your "Renewal To-Do List," which stated that your youngest daughter's "Renewal was complete. She does not need to do anything at this time." That same notice stated that she was eligible for a qualified health plan. This evidence was entered into the record as "Appellant's Exhibit A."
- 6) You testified that you believed your youngest child was enrolled in her MMC plan until August 2016, when the health plan made a follow up call to you and stated that she was no longer their customer and requested that you take a survey.
- 7) According to your NYSOH account and your testimony, NYSOH received your youngest child's updated application for health insurance on August 22, 2016.
- 8) You testified that you are seeking to have your youngest child enrolled in her Child Health Plus plan as of July 1, 2016. You further testified you are seeking this enrollment date because you do not want to be penalized by the IRS.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency" (42 CFR § 435.916(a)(2)).

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NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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).

Legal Analysis

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

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 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 May 4, 2016 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue her financial assistance for

health insurance, and that you needed to supply additional information between May 16, 2016 and June 15, 2016, or her financial assistance might end.

According to your NYSOH account and your testimony, you updated your youngest child's application on June 2, 2016, and changed her application for health insurance from a financial to a non-financial application. You testified that this was a mistake that you were not aware of at that time. As a result, and as stated in the June 3, 2016 notice, your youngest daughter was terminated from her current health coverage and found eligible to purchase a Qualified Health plan at full cost. That notice stated you needed to select a plan for her before July 31, 2016.

According to your NYSOH account and your testimony, you did not return to select a health plan for your youngest child until August 22, 2016 and, therefore, your youngest child's application for health coverage was not complete until that date. You testified that you did receive the June 3, 2016 eligibility determination notice stating that your child was eligible for a Qualified Health Plan at full cost and the June 4, 2016 disenrollment notice telling you that your youngest child would be terminated from her Medicaid Managed Care plan effective June 30, 2016.

You further testified that once you received the notices, you went online and checked to make sure she was covered. You believed she was still covered and that the notices were yet another glitch in the system because when you pulled up your "Renewal To-Do List" it stated that your youngest daughter's "renewal is complete. She does not need to do anything at this time" (see Appellant's Exhibit A). You testified that you believed your youngest daughter was enrolled in her Child Health Plus plan until the health plan made a follow up call to you and stated that she was no longer their customer and requested that you take a survey in August 2016. However, that same document (Appellant's Exhibit A) clearly states that your youngest child was "eligible" for a "Qualified Health Plan", therefore, it is not reasonable to assume that she was enrolled in her MMC plan, as you contended (*id.*).

Your testimony and your Renewal To-Do List are the only evidence in the record to explain why you delayed in completing your youngest daughter's application until August 2016. Because you relied on the Renewal To-Do List, rather than the two notices NYSOH issued, which you acknowledged receiving, you never contacted NYSOH to inquire about those notices or to enroll your youngest child into a health plan. Thus, your youngest child's application was not complete until you updated her account on August 22, 2016.

Generally, a Child Health Plus plan can be backdated in instances where NYSOH failed to provide timely notice of a renewal or a termination of coverage, when a child is considered presumptively eligible for Child Health Plus during the 60-day period after applying for coverage or during the 60-day period after

renewing their already existent Child Health Plus plan, or when a representative or instrumentality of NYSOH made an error or misrepresented information.

In your case, none of these circumstances apply. According to your NYSOH account and your testimony, you mistakenly switched your child's account from a financial assistance application to a non-financial assistance application. You detrimentally relied on a portion of a screenshot of your computer and failed to inquire with NYSOH about the notices that you received, resulting in your daughter's lapse in health coverage. Neither you, the Renewal To-Do List, nor your computer screen, are representatives or instrumentalities of the NYSOH, therefore, the record does not support that NYSOH, by inaction or action made an error or misrepresented information. Additionally, your admission that you received your youngest child's disenrollment notices and eligibility determination is substantial proof that NYSOH gave you timely notice to correct the situation. Finally, since none of these circumstances apply to your youngest child and she was not in a period of presumptive eligibility, her enrollment in her Child Health Plus plan cannot be backdated.

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 sixteenth day and the last day of a month goes into effect on the first day of the next following month.

In your case, you completed your application and selected a CHP plan for your youngest child on August 22, 2016. As such, your youngest child's Child Health Plus plan would properly go into effect the first day of the next following month after August 2016; that is, on October 1, 2016.

Therefore, the August 23, 2016 enrollment confirmation notice stating that your youngest child's enrollment in their Child Health Plus plan was effective October 1, 2016, is correct and must be AFFIRMED.

Decision

The August 23, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

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).

The effective date of your youngest child's Child Health Plus plan is October 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

Summary

The August 23, 2016 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

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The effective date of your youngest child's Child Health Plus plan is October 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:

