



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

Notice of Decision

Decision Date: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011676

[REDACTED]

Dear [REDACTED],

On January 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 2016 disenrollment notice and August 25, 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.

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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NYSOH properly determine that your daughter's enrollment in her Child Health Plus plan terminated effective August 31, 2016?

Did NYSOH properly determine that your daughter's enrollment in her Child Health Plus plan was effective October 1, 2016?

Procedural History

On April 16, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your April 15, 2016 application, stating that your daughter was conditionally eligible to enroll in Child Health Plus, effective May 1, 2016. That notice stated that you had to provide your daughter's citizenship status and Social Security number to NYSOH by July 14, 2016 or your daughter may be found ineligible for health insurance or for less help with your health insurance.

Also, on April 16, 2016, NYSOH issued a notice of enrollment, based on your plan selection on April 15, 2016, stating that your child daughter was enrolled in a Child Health Plus plan. That notice also stated that you had to provide your daughter's citizenship status and Social Security number to NYSOH by July 14, 2016.

No updates were made to your account by July 14, 2016.

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On August 2, 2016, NYSOH issued an eligibility determination notice stating that your daughter was 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 daughter also could not enroll in a qualified health plan. This was because you had not responded to the April 16, 2016 notice and had not provided your daughter's Social Security number or citizenship status within the required time frame.

Also, on August 2, 2016, NYSOH issued a disenrollment notice stating that your daughter's coverage in her Child Health Plus plan would end effective August 31, 2016.

On August 24, 2016, NYSOH received your daughter's updated application for health insurance including her Social Security number and citizenship status.

Also, on August 24, 2016 NYSOH prepared a preliminary eligibility determination, stating that your daughter was eligible to enroll in Child Health Plus with a \$45.00 monthly premium, effective October 1, 2016. That day, you also reenrolled your daughter into a Child Health Plus plan.

Also, on August 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your daughter's Child Health Plus plan insofar as it did not begin September 1, 2016.

On August 25, 2016 NYSOH issued an eligibility determination notice, based on your August 24, 2016 application, stating that your daughter was eligible to enroll in Child Health Plus with a \$45.00 monthly premium, effective October 1, 2016.

On August 25, 2016 NYSOH issued a notice of enrollment, based on your plan selection on August 24, 2016, stating that your child daughter was enrolled in a Child Health Plus plan and that coverage would start on October 1, 2016.

On January 13, 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 support 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 April 16, 2016 notices from NYSOH advising you that you needed to provide documentation to

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confirm your daughter's citizenship status and Social Security number by July 14, 2016.

- 3) None of the notices that were sent to you at the notice listed on your NYSOH account have been returned as undeliverable.
- 4) You testified that you updated your account and provided your daughter's Social Security number and citizenship status to NYSOH on August 24, 2016.
- 5) You testified that your daughter was redetermined eligible for Child Health Plus coverage effective October 1, 2016.
- 6) You testified that you selected a Child Health Plus plan for your daughter on August 24, 2016.
- 7) You testified that you are seeking that your daughter be enrolled in her Child Health Plus plan as of September 1, 2016.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

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NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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

Legal Analysis

The first issue under review is whether NYSOH properly determined that your daughter's enrollment in her Child Health Plus plan terminated effective August 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with 90 days from the date the notice is received to resolve the inconsistency.

The record indicates that your daughter was added to your NYSOH account on April 15, 2016. The application that was submitted that day indicates that she was a U.S. Citizen but she did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued April 16, 2016 you were advised that your daughter's eligibility was conditional and that you needed to confirm her Social Security number and citizenship status before July 14, 2016.

On August 2, 2016, NYSOH issued a disenrollment notice stating that your daughter's coverage in her Child Health Plus plan would end effective August 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH. This was because NYSOH did not receive documentation of her citizenship status and Social Security number.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your daughter from her Child Health Plus plan was dated August 2, 2016. Therefore, the notice terminating your daughter's would be considered received as of August 7, 2016.

When changes are made to an individual's application before the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the following month. Since you received NYSOH's notice terminating your child's Child Health Plus coverage before the 15th of the month, any changes you would have made to prevent a gap in coverage would have been effective September 1, 2016.

You testified that you did not receive the April 16, 2016 notices from NYSOH telling you that you needed to update the information in your NYSOH account on your daughter's behalf. You testified, and your NYSOH account confirms, that you elected to receive notifications via regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, NYSOH properly notified you that the information in your NYSOH account needed to be updated in order to ensure your daughter's enrollment in her Child Health Plus plan and eligibility for financial assistance would continue and the August 2, 2016 disenrollment notice is AFFIRMED.

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

You updated your account with your daughter's Social Security number on August 24, 2016, and enrolled your her 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

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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.

Since you selected a plan on August 24, 2016, the plan would have properly started on the first day of the scone month after August, that is October 1, 2016.

Therefore, NYSOH's August 24, 2016 enrollment confirmation notice is AFFIRMED because it properly began your daughter's enrollment in her Child Health Plus on October 1, 2016.

Decision

The August 2, 2016 disenrollment notice is AFFIRMED.

The August 25, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 31, 2017

How this Decision Affects Your Eligibility

This decision does not change your daughter's eligibility.

The effective date of your daughter'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)).

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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:
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- By fax: 1-855-900-5557

Summary

The August 2, 2016 disenrollment notice is AFFIRMED.

The August 25, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your daughter's eligibility.

The effective date of your daughter'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:

