



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: AP000000011733

[REDACTED]

Dear [REDACTED],

On January 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 8, 2016 eligibility determination notice and August 9, 2016 disenrollment 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

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NY State of Health Account ID: [REDACTED]
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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 properly determine that your youngest child's eligibility for and enrollment in Child Health Plus terminated effective August 31, 2016?

Procedural History

On May 3, 2016, your youngest child (child) was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On May 4, 2016, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in Child Health Plus with a \$45.00 per month premium effective June 1, 2016. The notice requested that you provide documentation confirming her citizenship status and Social Security number before August 1, 2016.

Also on May 4, 2016, NYSOH issued a notice confirming your child's enrollment in a Child Health Plus plan.

On August 8, 2016, NYSOH issued an eligibility determination notice stating that your child 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. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and Social Security number within the required timeframe.

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On August 9, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her Child Health Plus plan would end effective August 31, 2016 because she is no longer eligible to enroll in health insurance through NYSOH.

On August 29, 2016, your child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that your child was eligible to enroll in Child Health Plus and you selected a plan for her enrollment.

Also on August 29, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her Child Health Plus plan in the month of September.

On August 30, 2016, NYSOH issued an eligibility determination notice based on the August 29, 2016 application, stating that your child was eligible to enroll in Child Health Plus with a \$15.00 per month premium, effective October 1, 2016.

Also on August 30, 2016, NYSOH issued an enrollment confirmation notice based on the plan selection you made on August 29, 2016, stating that your child was enrolled in a Child Health Plus plan.

On January 12, 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 that you are only appealing your youngest child's disenrollment from her Child Health Plus plan for the month of September 2016.
- 2) The record indicates that your child was added to your NYSOH account on May 3, 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.
- 3) You testified that you received her Social Security number in late July 2016.
- 4) You testified that you contacted NYSOH a couple times in August 2016 to update your account with your child's Social Security number but

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you were unable to update your account because the NYSOH “systems” were down.

- 5) You testified that you thought you had until August 30, 2016 to provide your child’s Social Security number to NYSOH.
- 6) You testified that you were able to update your NYSOH account on August 29, 2016 with your child’s Social Security number.
- 7) The record indicates that on August 29, 2016, your child’s Social Security number was added to your NYSOH account.
- 8) You testified that you learned your child was dis-enrolled from her plan during the August 29, 2016 telephone call with NYSOH.

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)).

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

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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).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90 day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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 issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in Child Health Plus terminated effective August 30, 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 a period of 90 days from the date notice is received to resolve the inconsistency.

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The record indicates that your youngest child was added to your NYSOH account on May 3, 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 on May 4, 2016 you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her Social Security number and citizenship status before August 1, 2016.

You testified that you received your child's Social Security number in late July 2016. You further testified that you contacted NYSOH multiple times in August 2016 to update your account with your child's Social Security number but you were unable to because the "systems" were down. As such, the record indicates that NYSOH did not have your child's Social Security number before the August 1, 2016 deadline.

On August 9, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her Child Health Plus plan would end effective August 30, 2016 because she was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued August 8, 2016, 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 dis-enrolling your child from her Child Health Plus plan was dated August 9, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of August 14, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. If NYSOH's notice terminating your child's Child Health Plus eligibility was received after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until September 1, 2016. This would be insufficient notice to allow you to take action in order to prevent a gap in Child Health Plus coverage for your child for the month of September 2016.

As discussed above, the notice terminating your child's enrollment was considered received August 14, 2016. However, this date was a Sunday and was within close enough proximity to the 15th of the month to reasonably imply that NYSOH did not afford you sufficient notice to allow you to take action in order to

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prevent a gap in Child Health Plus coverage for your child for the month of September 2016. Notwithstanding the credible testimony you provided that you contacted NYSOH multiple times in August to provide your child's Social Security number, but you were unable to update your account because the NYSOH systems were down.

As such, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your child for the month of September 2016 and the August 8, 2016 eligibility determination notice and August 9, 2016 and disenrollment notice are both RESCINDED.

Decision

The August 8, 2016 eligibility determination notice and August 9, 2016 disenrollment notice are both RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of September 2016.

Effective Date of this Decision: January 24, 2017

How this Decision Affects Your Eligibility

Your child should not have been terminated from her Child Health Plus plan in September 2016 for failure to submit proof of her citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus for the months of September 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.

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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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The August 8, 2016 eligibility determination notice and August 9, 2016 disenrollment notice are both **RESCINDED**.

Your child should not have been terminated from her Child Health Plus plan in September 2016 for failure to submit proof of her citizenship status and Social Security number.

Your case is **RETURNED** to NYSOH to reinstate your child into her Child Health Plus plan for the month of September 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

