



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: AP000000011825

[REDACTED]

Dear [REDACTED],

On December 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 14, 2016 eligibility redetermination and disenrollment notices.

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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Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011825



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's eligibility for and enrollment in Child Health Plus terminated effective August 31, 2016?

Procedural History

On May 10, 2016, your infant child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On May 11, 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 his citizenship status and Social Security number before August 8, 2016.

Also on May 11, 2016, NYSOH issued a notice confirming your child's enrollment in a Child Health Plus plan, effective June 1, 2016.

On August 14, 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. He also could not enroll in a qualified health plan at full cost. This was because you had not confirmed his citizenship status and Social Security number within the required timeframe.

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Also on August 14, 2016, NYSOH issued a disenrollment notice stating that your infant child's coverage in his Child Health Plus plan would end effective August 31, 2016, because he was no longer eligible to enroll in health insurance through NYSOH.

On August 16, 2016, your infant child's Social Security number was added to your NYSOH account.

On August 17, 2016, NYSOH issued an eligibility redetermination notice stating that your infant child was eligible to enroll in Child Health Plus with a \$45.00 per month premium, effective October 1, 2016.

Also on August 17, 2016, NYSOH issued an enrollment confirmation notice stating that your infant child was enrolled in a Child Health Plus plan, effective October 1, 2016.

On September 1, 2016, you spoke to NYSOH's Account Review Unit and appealed your infant child's disenrollment from his Child Health Plus plan that resulted in a gap in coverage in the month of September 2016.

On December 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open until December 21, 2016 so you could submit a copy of your infant child's birth certificate and his Social Security card.

On December 22, 2016, NYSOH Appeal Unit received your two-page fax submission of your child's birth certificate with his Social Security number handwritten on it. That same day, this document was made part of the record as Appellant's Exhibit # 1 and the record was closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are only appealing your infant child's disenrollment from his Child Health Plus plan which resulted in a gap in his coverage for the month of September 2016.
- 2) The record indicates that your infant child was added to your NYSOH account on May 10, 2016. The application that was submitted that day indicates that he was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.
- 3) The record indicates that on August 16, 2016, your infant child's Social Security number was added to your NYSOH account.

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- 4) You testified that you did not know your infant child had been disenrolled from his Child Health Plus plan until you took him to the hospital emergency room in September 2016.
- 5) You testified that you need your infant child's Child Health Plus plan to be reinstated as of September 1, 2016 because you have medical bills related to his treatment at the hospital emergency room in September 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)).

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).

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

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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 infant child's eligibility for and enrollment in Child Health Plus 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 a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your infant child was added to your NYSOH account on May 10, 2016. The application that was submitted that day indicates that he was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on May 11, 2016, you were advised that your infant child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his Social Security number and citizenship status before August 8, 2016.

On August 14, 2016, NYSOH issued a disenrollment notice stating that your infant child's coverage in his Child Health Plus plan would end effective August 31, 2016, because he was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on that day, this was because NYSOH did not receive documentation of his 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 infant child from his Child Health Plus plan was dated August 14, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of August 19, 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. Since you would have received NYSOH's notice terminating your infant child's Child Health Plus eligibility 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 October 1, 2016.

Therefore, 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 infant child for the month of September 2016 and the August 14, 2016, eligibility redetermination and disenrollment notices are RESCINDED.

Decision

The August 14, 2016 eligibility redetermination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your infant child into his Child Health Plus plan for the month of September 2016, and to notify you accordingly.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

Since it is determined that NYSOH did not provide you with sufficient notice to allow you to take action to prevent a gap in your infant child's coverage for the month of September, 2016, he should not have been terminated from his Child Health Plus plan in September 2016 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your infant child into his Child Health Plus plan for the month of September 2016. NYSOH will notify you once this has been achieved.

You will be responsible for paying the monthly premium for September 2016 to the Child Health Plus plan, if applicable.

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:

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- By fax: 1-855-900-5557

Summary

The August 14, 2016 eligibility redetermination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your infant child into his Child Health Plus plan for the month of September 2016, and to notify you accordingly.

Since it is determined that NYSOH did not provide you with sufficient notice to allow you to take action to prevent a gap in your infant child's coverage for the month of September, 2016, he should not have been terminated from his Child Health Plus plan in September 2016 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your infant child into his Child Health Plus plan for the month of September 2016.

You will be responsible for paying the monthly premium for September 2016 to the Child Health Plus plan, if applicable.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

