



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: AP000000011863

[REDACTED]

Dear [REDACTED],

On December 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 3, 2016 disenrollment notice and September 9, 2016 enrollment 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011863

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Issues

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

Can NY State of Health (NYSOH) Appeals Unit consider your appeal regarding the cancellation of your children's enrollment in their Child Health Plus plan, effective August 31, 2016, because of non-payment of premiums?

Did the NYSOH properly determine that your children's re-enrollment in their Child Health Plus plan, was effective October 1, 2016?

Procedural History

On December 8, 2015, NYSOH issued an eligibility determination notice, based on your December 7, 2015 application, stating that your children were eligible to enroll in Child Health Plus for a cost of \$9.00 per month each. This eligibility determination was effective January 1, 2016.

Also on December 8, 2015, NYSOH issued an enrollment notice confirming your enrollment of your children in a Child Health Plus plan, for a total cost of \$27.00 per month, with a January 1, 2016 start date.

On September 3, 2016, NYSOH issued a disenrollment notice stating that your children had been terminated from their Child Health Plus coverage, effective August 31, 2016, because premium payments had not been received by the

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Child Health Plus plan within the required timeframe in order to maintain coverage.

On September 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin September 1, 2016, in order to avoid a one-month gap in coverage.

On September 9, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 8, 2016, stating that your children were re-enrolled in their Child Health Plus plan as of October 1, 2016.

On December 6, 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 supports the following findings of fact:

- 1) You testified that you are appealing your children's gap in coverage in their Child Health Plus plan during the month of September 2016.
- 2) According to your NYSOH account and your testimony, you receive notices by regular mail.
- 3) According to your NYSOH account and your testimony, your children's Child Health Plus coverage was terminated as of August 31, 2016 for non-payment of premiums.
- 4) You testified that you mailed a check for the monthly premium to the Child Health Plus plan but it did not arrive in time.
- 5) According to your NYSOH account, you re-enrolled your children in their Child Health Plus plan on September 8, 2016.
- 6) You testified that you need your children's Child Health Plus plan begin on September 1, 2016 because one of your children had to see a doctor and you had to purchase medications for the children during the month of September 2016.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.420(d)).

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).

Legal Analysis

The first issue under review is whether NYSOH Appeals Unit can consider your appeal regarding the disenrollment of your children from their Child Health Plus plan, effective August 31, 2016, because of non-payment of premiums.

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On September 3, 2016, NYSOH issued a disenrollment notice confirming that your children had been disenrolled from their Child Health Plus coverage effective August 31, 2016 for non-payment of premiums. You testified that you mailed in the monthly premium payment to the Child Health Plus plan but it did not arrive within the required time period.

The NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by NYSOH to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your children were properly terminated from their Child Health Plus plan. Therefore, your appeal of your children's disenrollment from their Child Health Plus plan as of August 31, 2016 is DISMISSED as a non-appealable issue.

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

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 month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

According to your NYSOH account, you contacted NYSOH on September 8, 2016 and re-enrolled your children into their Child Health Plus plan, so their enrollment properly took effect on the first day of the first month following September 2016; that is, on October 1, 2016.

Therefore, the September 9, 2016 notice of enrollment stating that your children's reenrollment in their Child Health Plus plan was effective October 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeal of your children's disenrollment from their Child Health Plus plan as of August 31, 2016 for non-payment of premiums is DISMISSED as a non-appealable issue.

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The September 9, 2016 enrollment notice is AFFIRMED.

Effective Date of this Decision: January 31, 2017

How this Decision Affects Your Eligibility

The effective re-enrollment date of your children's coverage with their 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:

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- By fax: 1-855-900-5557

Summary

Your appeal of your children's disenrollment from their Child Health Plus plan as of August 31, 2016 for non-payment of premiums is **DISMISSED** as a non-appealable issue.

The September 9, 2016 notice of enrollment is **AFFIRMED**.

The effective re-enrollment date of your children's coverage with their 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:

