



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

Notice of Decision

Decision Date: January 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012070

[REDACTED]

[REDACTED]

On December 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 6, 2016 eligibility determination 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 Date: January 18, 2017

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 child's eligibility for and enrollment in her platinum-level Qualified Health Plan terminated effective August 31, 2016?

Procedural History

On May 2, 2016, your child was added to your NY State of Health (NYSOH) account and a non-financial application was submitted on her behalf.

On May 3, 2016, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in a full price Qualified Health Plan (QHP), effective June 1, 2016. The notice requested that you provide documentation confirming her citizenship status and Social Security number before July 31, 2016.

Also on May 3, 2016, NYSOH issued a notice confirming your child's enrollment in a platinum-level QHP with a family premium of \$1,041.45 per month. The plan enrollment start date was January 1, 2016.

As of July 31, 2016, the requested information regarding your child was not added to your NYSOH account.

On August 6, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible to enroll in a QHP at full cost because you had not

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confirmed her citizenship status and Social Security number within the required timeframe.

Also on August 6, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her QHP would end effective August 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH.

On September 19, 2016, your child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared finding her eligible to purchase a QHP; however, she did not qualify for a special enrollment period within which to enroll in a QHP.

Also on September 19, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her platinum-level QHP for the month of September 2016.

On September 20, 2016, NYSOH issued an eligibility determination notice based on the September 19, 2016 updated application, stating that your child was eligible to enroll in a platinum-level QHP with a family premium of \$1,041.45 per month premium, effective November 1, 2016. That notice further confirmed that your child did not qualify for a special enrollment period within which to enroll in a health plan outside of the open enrollment period.

On December 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open for 15 days for you to submit proof of current third party health insurance, proof of submission of your child's citizenship and Social Security documentation, and proof of payment of the family premium for September 2016. That proof was received on December 20, 2016, and was made part of the record that same day as "Appellant's Exhibit A" The record is now closed.

Findings of Fact

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

- 1) You testified that you are only appealing your child's gap in coverage in her QHP for the month of September 2016, because her coverage under your employer-sponsored health plan did not begin until October 1, 2016 (see Appellant's Exhibit A).
- 2) According to your NYSOH account, you receive notices from NYSOH by electronic mail.
- 3) According to your NYSOH account, your child was added to your NYSOH account on May 2, 2016. The application that was submitted

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that day indicated that she was a U.S Citizen and you were in the process of applying for her Social Security number.

- 4) You testified that you received her Social Security number in late May 2016.
- 5) You further testified that, on July 2, 2016, you sent by regular mail to NYSOH's PO Box a copy of her Social Security card, along with her birth certificate. You testified that you remember sending it at that time because it was at the same time you sent your child's application for Gerber Life Insurance.
- 6) You submitted a letter, dated July 2, 2016, in which you attested to sending this documentation by regular mail (see Appellant's Exhibit A). You testified that you have no proof of this mailing because you sent the documentation via regular mail.
- 7) There is no record of this documentation being uploaded by NYSOH to your account.
- 8) You testified that you did not receive notice that your child's eligibility for and enrollment in her QHP ended August 31, 2016.
- 9) You testified and submitted documentation to show that you paid the premium for your child's QHP for the month of September, 2016 (see Appellant's Exhibit A).
- 10) You testified that you did not know your child had been disenrolled from her QHP as of August 31, 2016, until you received bills from medical providers for services she received in September 2016.
- 11) According to your NYSOH account, you added your child's Social Security number to your NYSOH account on September 19, 2016.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a QHP through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present

noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

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).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. 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)).

Electronic Notice

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in her platinum-level QHP terminated effective August 31, 2016.

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

If NYSOH cannot verify an individual's citizenship status, 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. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination notice issued on May 3, 2016, you were advised that your child's eligibility was only conditional, and that you needed to confirm your child's citizenship status and Social Security number before July 31, 2016. The notice further stated that your failure to provide the requested information would result in NYSOH making an eligibility determination based solely on the documentation available in your account.

According to the August 6, 2016 eligibility redetermination notice, NYSOH did not receive the requested citizenship documentation and Social Security number before the July 31, 2016 deadline. Since NYSOH had no documentation to prove your child had a valid Social Security number, your child was disenrolled from her QHP, effective August 31, 2016.

However, you testified that you received her Social Security number in late May 2016 and that you mailed that along with her birth certificate to NYSOH at its registered PO Box on July 2, 2016. You submitted evidence in the form of a letter in which you attested to sending to NYSOH your child's Social Security number, along with proof of her citizenship (see Appellant's Exhibit A). You testified that you could not submit proof of mailing because you sent that letter and its attachments via regular mail, but you recall sending it when you mailed your child's application for health insurance that same day. Since you were not only aware of the need to send in the documentation before a date certain and testified that you, in fact, did send in that documentation in a timely fashion, it is reasonable to conclude that NYSOH did give you the proper notice that you needed to submit documentation of your child's citizenship and Social Security number before July 31, 2016.

You also testified that you were not given notice that your child was no longer eligible to enroll through NYSOH or that she was disenrolled from her QHP as of August 31, 2016.

First, based on the totality of the evidence, it is reasonable to conclude that your testimony and documentation is credible evidence of your timely submission of your child's Social Security number and proof of citizenship.

As such and there being no evidence to the contrary, an inference can be made that NYSOH failed to timely update your account in order to avoid a gap in your child's coverage occurring for the month of September 2016.

Moreover, the record reflects that you receive electronic alerts from NYSOH and you credibly testified that you did not receive either notice that your child was no longer eligible to enroll in a QHP through NYSOH and, therefore, was being disenrolled from her QHP, effective August 31, 2016. In reviewing your NYSOH account, there is no evidence documenting that any email alert was sent to you regarding your child's ineligibility for or disenrollment from her QHP as of August 31, 2016.

Therefore, it is concluded that NYSOH did not give you the proper notice that your child was no longer eligible for health insurance through NYSOH and was to be disenrolled as of August 31, 2016 from her QHP.

For these reasons, the August 6, 2016 eligibility determination notice stating that your child was no longer eligible to remain enrolled in a QHP as of September 1, 2016 for failure to timely submit required documentation is RESCINDED.

Similarly, the August 6, 2016 disenrollment notice stating that your child's coverage in her QHP would end effective August 31, 2016 because she was no longer eligible to enroll in health insurance through NYSOH, is RESCINDED.

Your case is RETURNED to NYSOH to facilitate your child's re-enrollment in her QHP effective, September 1, 2016 through September 30, 2016, and to notify you accordingly. Your child's coverage will properly end September 30, 2016, because you provided proof of third party health insurance for her as of October 1, 2016.

The September 19, 2016 eligibility redetermination notice is rendered moot by this Decision and, therefore, is RESCINDED.

Decision

The August 6, 2016 notices of eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to facilitate your child's re-enrollment in her QHP, effective September 1, 2016 through September 30, 2016, and to notify you accordingly. Your child's coverage will properly end September 30, 2016, because you provided proof of third party health insurance for her as of October 1, 2016.

The September 19, 2016 eligibility redetermination notice is rendered moot by this Decision and, therefore, is RESCINDED.

Effective Date of this Decision: January 18, 2017

How this Decision Affects Your Eligibility

NYSOH failed to give you proper notice that your child was being disenrolled from her QHP, effective August 31, 2016.

Your case is being sent back to NYSOH to facilitate your child's re-enrollment in her QHP, effective September 1, 2016 through September 30, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any premium owed for September 2016, 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):

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You can contact us in any of the following ways:

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- By fax: 1-855-900-5557

Summary

The August 6, 2016 notices of eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to facilitate your child's re-enrollment in her QHP, effective September 1, 2016 through September 30, 2016, and to notify you accordingly. Your child's coverage will properly end September 30, 2016, because you provided proof of third party health insurance for her as of October 1, 2016.

The September 19, 2016 eligibility redetermination notice is rendered moot by this Decision and, therefore, is RESCINDED.

NYSOH erred in disenrolling your child from qualified health plan effective August 31, 2016.

Your case is being sent back to NYSOH to facilitate your child's re-enrollment in her QHP, effective September 1, 2016 through September 30, 2016. NYSOH will notify you once this has been completed.

You will be responsible for any premium owed for September 2016, 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:

