



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

Notice of Decision

Decision Date: January 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012074

[REDACTED]

Dear [REDACTED],

On January 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2016 eligibility determination and the September 21, 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 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

Decision Date: January 23, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012074



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 children were disenrolled from their Child Health Plus plan effective September 30, 2016 and were not re-enrolled until November 1, 2016, resulting in a gap in coverage during the month of October 2016?

Procedural History

On September 3, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your September 1, 2015 application, stating that your children were eligible for Child Health Plus effective October 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On August 3, 2016 NYSOH issued a notice that it was time to renew your children's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your account by September 15, 2016 or the financial assistance your children were receiving might end.

No updates were made to your account by September 15, 2016.

On September 17, 2016 NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost

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of insurance. Your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your children's renewal within the required time frame. Your children's eligibility ended September 30, 2016.

On September 20, 2016, NYSOH received your children's updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your children qualified for Child Health Plus, effective November 1, 2016.

Also on September 20, 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 October 1, 2016.

On September 21, 2016, NYSOH issued a notice of eligibility determination, based on your September 20, 2016 application, stating that your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective November 1, 2016.

Also on September 21, 2016 NYSOH issued a notice of enrollment, based on your plan selection on September 20, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on November 1, 2016.

On January 17, 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, and the record reflects, that you receive all of your notices from NYSOH by regular mail.
- 2) You testified that when you originally applied for coverage for your children through NYSOH, you selected to have their coverage automatically renewed.
- 3) You testified that your children's premium payments were automatically deducted from your account, and that the premium payment for October 2016 was deducted from your bank account.
- 4) You testified that you did receive a renewal notice telling you that you needed to update your application in order to renew your children's

coverage. However, you further testified that you did not receive the renewal notice until after the September 15, 2016 deadline.

- 5) You testified that you realized you needed to update your children's application for health insurance when you received the renewal notice.
- 6) The record reflects that on September 20, 2016, NYSOH received your children's updated application for health insurance.
- 7) You testified that when you contacted NYSOH on September 20, 2016, you were alerted that your children would be disenrolled from their Child Health Plus plan as of September 30, 2016.
- 8) You testified that you are seeking that your children be enrolled in their Child Health Plus plan as of October 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

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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

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. The State of New York will furnish benefits by 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).

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The State of New York has elected to provide presumptive eligibility to children if they appear eligible for coverage but are missing one or more documents needed to verify eligibility. Children may be enrolled presumptively for two months while the missing documentation is collected (see *e.g.* 42 CFR § 457.355; SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In addition, where an application for recertification of Child Health Plus coverage contains insufficient information for a final determination of eligibility for continued coverage for the next policy period, a child or children must be presumed eligible for a period of no greater than two months after the previous eligibility period ends or the date upon which a final determination of eligibility is made based on the submission of additional data. Only in the event that such additional information is not submitted within two months of NYSOH's request, shall the child or children be disenrolled from Child Health Plus (NY Public Health Law § 2511(2)(j)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were disenrolled from their Child Health Plus plan effective September 30, 2016 and were not re-enrolled until November 1, 2016, resulting in a gap in coverage during the month of October 2016.

Your children were originally found eligible for Child Health Plus and enrolled effective October 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's August 3, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance, and that you needed to supply additional information by September 15, 2016, or their financial assistance might end.

You testified that you did not receive the renewal notice telling you that you needed to update your application in order to renew your children's coverage until after the September 15, 2016 deadline, and as a result you did not submit an updated application prior to September 15, 2016.

The record indicates that your children were then disenrolled from their Child Health Plus plan because you did not respond to the renewal notice. Your children's eligibility and enrollment subsequently ended on September 30, 2016.

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However, under the presumptive eligibility rule, your children should have been entitled to two months of presumptive eligibility upon the need to recertify for the next policy period beginning October 1, 2016. This is because when a child or children are being automatically recertified for Child Health Plus, they are presumed eligible for up to two months from the date that the previous period of eligibility ends if there is insufficient information for a redetermination. NYSOH provides this two-month period of presumptive eligibility to children so as to avoid a gap in coverage and to permit the parents or caregiver relatives a two-month window within which to provide sufficient documentation.

Since the end date of the previous 12-month policy period of your children's eligibility for and enrollment in Child Health Plus, September 30, 2016, your children should have been determined presumptively eligible from October 1, 2016 through November 30, 2016 so as to avoid a gap in their Child Health Plus coverage for the upcoming policy period and allow you to submit sufficient information to have their eligibility determined.

Therefore, the September 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The September 21, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of October 2016.

Decision

The September 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The September 21, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of October 2016.

Effective Date of this Decision: January 23, 2017

How this Decision Affects Your Eligibility

Your children should have been given two months of Child Health Plus presumptive eligibility effective October 1, 2016.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plan for the month of October 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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Summary

The September 17, 2016 eligibility determination notice is MODIFIED to state that your children were presumptively eligible to remain in Child Health Plus for two months pending your completion of their recertification.

The September 21, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective as of October 1, 2016.

Your children should have been given two months of Child Health Plus presumptive eligibility effective October 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus for the month of October 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

