



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

Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012079

[REDACTED]

Dear [REDACTED]

On February 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 22, 2016 disenrollment notice and September 28, 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 NY State of Health 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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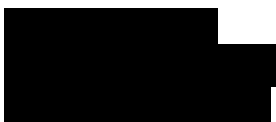


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Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012079



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly terminate your oldest child's enrollment in his Child Health Plus plan, effective May 31, 2016, because of non-payment of premiums?

Did the NY State of Health properly determine that your oldest child's reenrollment in his Child Health Plus plan was effective November 1, 2016?

Procedural History

On December 9, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, stating that your oldest child was eligible to enroll in Child Health Plus with a \$15.00 monthly premium, effective January 1, 2016.

Also on December 9, 2015, NYSOH issued a notice of enrollment, stating that your oldest child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start January 1, 2016.

On September 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your oldest child's Child Health Plus plan insofar as you could not reenroll him as of June 1, 2016.

On September 22, 2016, NYSOH issued a disenrollment notice advising that your oldest child's coverage under his Child Health Plus plan was terminated,

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effective May 31, 2016, because premium payments had not been received by his plan.

On September 28, 2016, NYSOH issued an enrollment notice confirming your oldest child's reenrollment in a Child Health Plus plan with a plan enrollment start date of November 1, 2016.

On February 13, 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 appealing only your oldest child's Child Health Plus enrollment start date.
- 2) You testified that you are seeking to have your oldest child's reenrollment in his Child Health Plus plan effective as of June 1, 2016.
- 3) You testified that you did not receive any bills for your oldest child's Child Health Plus plan. You further testified that your oldest child's Child Health Plus plan had received payments from you, but there was an issue and the payment was put on hold and not applied to your oldest child's coverage.
- 4) You testified that you contacted NYSOH as soon as you learned that your oldest child was without health insurance coverage.
- 5) You testified that you had trouble reenrolling your oldest child into coverage when you contacted NYSOH.
- 6) The record reflects that on August 11, 2016, you contacted NYSOH to reenroll your oldest child into his Child Health Plus plan, but NYSOH was unable to process the request at that time as NYSOH had not yet received an indication from the Child Health Plus plan that your oldest child had been disenrolled for non-payment of premiums. On August 11, 2016 incident [REDACTED] was created to reflect this information.
- 7) The events tab in your NYSOH account reflects that on September 21, 2016, a navigator accessed your NYSOH account and reenrolled your oldest child into a Child Health Plus plan.

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

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Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal: (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) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

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

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The first issue under review is whether NYSOH properly terminated your oldest child's enrollment in his Child Health Plus plan, effective May 31, 2016, because of non-payment of premiums.

The record indicates that your oldest child was enrolled into his Child Health Plus plan effective January 1, 2016. You testified that you did not receive any premium bills from your oldest child's Child Health Plus plan and that you did make payments, however these were put on hold and not applied to your oldest child's plan premiums.

On September 22, 2016, NYSOH issued cancellation notices stating that your oldest child's coverage with his Child Health Plus plan had been cancelled effective May 31, 2016 because premium payments were not received by his plan within the required time frame.

The New York State of Health 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 the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the New York State of Health 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 oldest child was properly terminated from his Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the September 22, 2016 cancellation notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your oldest child's reenrollment in his Child Health Plus plan was effective November 1, 2016.

The record reflects that you first contacted NYSOH on August 11, 2016 to reenroll your oldest child into his Child Health Plus plan, but were prevented from doing so as NYSOH had not yet received an indication from the Child Health Plus plan that your oldest child had been disenrolled for non-payment of premiums.

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.

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As you contacted NYSOH to reenroll your oldest child into a Child Health Plus plan on August 11, 2016, his reenrollment should have taken effect the first day of the following month; September 1, 2016.

Therefore, the September 28, 2016 enrollment confirmation notice is MODIFIED to state that your oldest child's reenrollment in his Child Health Plus plan was effective September 1, 2016.

Your case is RETURNED to NYSOH to reenroll your oldest child into his Child Health Plus plan as of September 1, 2016.

Decision

The appeal of the September 22, 2016 disenrollment notices is DISMISSED.

The September 28, 2016 enrollment confirmation notice is MODIFIED to reflect that your oldest child's reenrollment in his Child Health Plus plan was effective September 1, 2016.

Your case is RETURNED to NYSOH to reenroll your oldest child into his Child Health Plus plan as of September 1, 2016.

Effective Date of this Decision: February 28, 2017

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan is September 1, 2016.

Your case is being sent back to NYSOH to reenroll your oldest child into his Child Health Plus plan as of September 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.

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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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The appeal of the September 22, 2016 disenrollment notices is **DISMISSED**.

The September 28, 2016 enrollment confirmation notice is **MODIFIED** to reflect that your oldest child's reenrollment in his Child Health Plus plan was effective September 1, 2016.

The effective date of your child's Child Health Plus plan is September 1, 2016.

Your case is **RETURNED** to NYSOH to reenroll your oldest child into his Child Health Plus plan as of September 1, 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:

