



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

Notice of Decision

Decision Date: March 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012139

[REDACTED]

Dear [REDACTED],

On January 26, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 17, 2016 and August 19, 2016 eligibility determination notices, as well as the August 19, 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.

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: AP000000012139



Issue

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your children's eligibility for and enrollment in their Child Health Plus plans would be terminated as of August 31, 2016?

Procedural History

On August 8, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating your children were eligible for Child Health Plus with \$30.00 monthly premiums, effective September 1, 2015. Your children subsequently enrolled in Child Health Plus plans.

On July 2, 2016, NYSOH issued a notice stating it was time to renew your children's health insurance for 2016. That notice further stated, 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 you needed to update your account by August 15, 2016 or your children might lose the financial assistance they were currently receiving.

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

On August 17, 2016, NYSOH issued an eligibility determination notice stating your children were not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a qualified health plan at full cost. This was

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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 would end August 31, 2016.

On August 18, 2016, NYSOH received your children's updated application for health insurance.

On August 19, 2016, NYSOH issued a notice of eligibility determination, based on your August 18, 2016 updated application, stating your children were eligible to enroll in Child Health Plus with \$45.00 monthly premiums, effective October 1, 2016

Also on August 19, 2016, NYSOH issued a notice of enrollment, based on your plan selection on August 18, 2016, stating your children were enrolled in Child Health Plus plans and coverage would start on October 1, 2016.

On September 1, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plans insofar as they did not begin September 1, 2016.

On January 26, 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 you received the July 2, 2016 renewal notice directing you to update your application in order to renew your children's coverage for 2016.
- 2) You testified you attempted to access your NYSOH account using your maiden name; however, there was nothing in the account and you were unable to complete the renewal.
- 3) You testified you realized, after the deadline to renew passed, you inadvertently had created two NYSOH accounts.
- 4) You testified, and NYSOH's records confirm, that you contacted NYSOH by telephone on August 18, 2016 to complete your children's renewal.
- 5) You testified your children were without health coverage for the month of September 2016.

- 6) You testified you are seeking backdating of your children's Child Health Plus coverage to September 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

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) (NY Public Health Law § 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

(NY Public Health Law § 2511(2)(a)-(e)).

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).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its "redetermination of eligibility without requiring information from the individual if able to do so based on reliable

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information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency" (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

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)(1)(D); 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 provided you with proper and adequate notice that your children's eligibility for and enrollment in their Child Health Plus plans would be terminated as of August 31, 2016.

Your children were found eligible for Child Health Plus, effective September 1, 2016, and subsequently enrolled into plans.

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 July 2, 2016 renewal notice stated there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance, and you needed to supply additional information by August 15, 2016, or their financial assistance might end.

You testified you received the July 2, 2016 renewal notice directing you to update your application in order to renew your children's coverage for 2016. However, you further testified you inadvertently created another NYSOH account while trying to renew your children's coverage and, as a result, you did not complete the renewal by August 15, 2016.

The record indicates your children were then disenrolled from their Child Health Plus plans because you did not respond to the renewal notice. Your children's eligibility and enrollment subsequently ended on August 31, 2016.

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. The July 2, 2016 renewal notice did not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your children's coverage through their Child Health Plus plan would end in the August 17, 2016 eligibility determination and subsequent disenrollment notices.

The record indicates that on August 18, 2016 you updated your NYSOH account and submitted an updated application for your children. You testified that you updated the account as soon as you received the notice that your children had been disenrolled from coverage.

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 children'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 children for the month of September 2016, and the August 17, 2016 and August 19, 2016 eligibility determination notices, as well as the August 19, 2016 eligibility determination notice are RESCINDED.

Decision

The August 17, 2016 and August 19, 2016 eligibility determination notices, as well as the August 19, 2016 eligibility determination notice are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus plans for the month of September 2016, and to notify you accordingly.

Effective Date of this Decision: March 08, 2017

How this Decision Affects Your Eligibility

Your children should not have been terminated from their Child Health Plus plan in September 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of September 2016. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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 August 17, 2016 and August 19, 2016 eligibility determination notices, as well as the August 19, 2016 eligibility determination notice are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children in their Child Health Plus plans for the month of September 2016, and to notify you accordingly.

Your children should not have been terminated from their Child Health Plus plan in September 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of September 2016. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

