



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

Notice of Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012295

[REDACTED]

Dear [REDACTED] and [REDACTED],

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 2016 enrollment and October 8, 2016 eligibility determination 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 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).

This page intentionally left blank.



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

Decision

Decision Date: February 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012295



Issue

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

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

Procedural History

On September 7, 2016, you updated your household's application for financial assistance to include your youngest child.

On September 8, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your September 7, 2016 application, stating that your youngest child was conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective October 1, 2016. The notice advised that your youngest child was not eligible to receive advance payments of the premium tax credit or to enroll in the Essential Plan as your youngest child was enrolled in employer sponsored health insurance. This same notice requested that you submit proof of citizenship status and a Social Security number for your youngest child by December 6, 2016.

On September 19, 2016 and September 23, 2016, documentation that your youngest child's third party health insurance had ended was uploaded to your NYSOH account.

On September 29, 2016, you updated your household's application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your youngest child was eligible to enroll in Child Health Plus, effective November 1, 2016.

Also on September 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child Health Plus plan insofar as it did not begin October 1, 2016.

On September 30, 2016, NYSOH issued a notice of enrollment, based on your plan selection on September 29, 2016, stating that your youngest child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start November 1, 2016.

On October 8, 2016, NYSOH issued a notice of eligibility determination, based on your September 29, 2016 application, stating that your youngest child was eligible to enroll in Child Health Plus for a limited time with a \$45.00 monthly premium, effective November 1, 2016. This notice requested that you submit citizenship status documentation and a Social Security number for your youngest child by December 6, 2016.

On January 20, 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 youngest child's eligibility.
- 2) Your youngest son was born on [REDACTED].
- 3) You testified that because your son was born on the [REDACTED], you knew he could not enroll in Child Health Plus for September 2016.
- 4) You testified that you enrolled your youngest child in your employer sponsored health insurance at the time of his birth, so that he would not have a gap in coverage.
- 5) You updated your household's application to NYSOH for financial assistance to include your youngest child on September 7, 2016.

- 6) You testified that you were not advised that you needed to submit documentation showing that your youngest child's third party health insurance would end until you contacted NYSOH on September 15, 2016.
- 7) On September 7, 2016, you contacted NYSOH. A review of the recording of that phone call reveals that you contacted NYSOH after receiving a preliminary determination that your youngest child was eligible for a full cost qualified health plan. During that phone call, an NYSOH representative informed you that the reason your youngest child was not found eligible for Child Health Plus was because he needed a Social Security number. The NYSOH representative advised you that all you needed was your youngest child's Social Security number and that there were no other issues with your youngest child's application for financial assistance.
- 8) You testified that you were advised that if your youngest child's third party health insurance ended on September 30, 2016, that he would be eligible for Child Health Plus as of October 1, 2016.
- 9) On September 15, 2016, you contacted NYSOH. A review of the recording of that phone call reveals that you contacted NYSOH to ascertain whether your child could be enrolled in a Child Health Plus plan pending availability of his Social Security number as you had been advised that it could be several months before his Social Security number was available. At that time, the NYSOH representative advised you that your youngest child's enrollment in third party health insurance was the reason he was found eligible for a full cost qualified health plan rather than Child Health Plus. During that phone call the NYSOH representative advised you that you would need to produce proof that his third party health insurance was ending. The NYSOH representative also advised you that if you produced documentation that your youngest child's third party health insurance was ending on September 30, 2016, your youngest child would have an October 1, 2016 start date for his Child Health Plus plan.
- 10) On September 19, 2016, you uploaded a screenshot regarding your youngest child. You testified that this was what was sent to you by your child's third party health insurance to show that his coverage would end September 30, 2016.
- 11) On September 23, 2016, you uploaded a letter dated September 23, 2016 from your employer stating that your youngest child's third party health insurance would terminate on September 30, 2016.
- 12) The record reflects, that you enrolled your youngest child into a Child Health Plus plan on September 29, 2016.

13) You testified that you need your youngest child's Child Health Plus plan to begin on October 1, 2016 because his third party health insurance ended on September 30, 2016, and he has outstanding medical bills for the month of October 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" (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 issue is whether NYSOH properly determined that your youngest child's enrollment in his Child Health Plus plan was effective November 1, 2016.

The record reflects that you updated your household's application for financial assistance to include your youngest child on September 7, 2016. At that time, your child was found eligible to enroll in a full cost qualified health plan, effective

October 1, 2016, rather than Child Health Plus, because the system was showing that your youngest child was enrolled in third party health insurance.

On September 7, 2016, you contacted NYSOH to resolve the issue with your account so that your youngest child could enroll in a Child Health Plus plan. You were incorrectly advised that the only issue preventing your child from being found eligible for a Child Health Plus plan was that he did not yet have a Social Security number.

Therefore, we must assume that had you been properly advised that your youngest child's third party health insurance was preventing your youngest child from being found eligible for Child Health Plus on September 7, 2016, you would have been able to resolve the issue with your youngest child's application and enrolled your child into a Child Health Plus plan at that time.

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.

Had the issue with your youngest child's application been resolved when you contacted NYSOH on September 7, 2016, your youngest child's eligibility for and enrollment in his Child Health Plus plan would have begun on October 1, 2016.

Therefore, the October 8, 2016 notice of eligibility and September 30, 2016 notice of enrollment are MODIFIED to state that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective October 1, 2016.

Decision

The October 8, 2016 notice of eligibility is MODIFIED to state that your youngest child's eligibility for Child Health Plus was effective October 1, 2016.

The September 30, 2016 notice of enrollment is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective October 1, 2016.

Your case is RETURNED to NYSOH to enroll your youngest child into his Child Health Plus plan for the month of October 2016.

Effective Date of this Decision: February 2, 2017

How this Decision Affects Your Eligibility

The effective date of your child's 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

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).

The October 8, 2016 notice of eligibility is MODIFIED to state that your youngest child's eligibility for Child Health Plus was effective October 1, 2016.

The September 30, 2016 notice of enrollment is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective October 1, 2016.

Your case is RETURNED to NYSOH to enroll your youngest child into his Child Health Plus plan for the month of October 2016.

The effective date of your child's 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:

