



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012352

[REDACTED]

Dear [REDACTED],

On January 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 13, 2016 eligibility determination 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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Decision

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012352



Issue

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

Did NY State of Health (NYSOH) properly determine that your child was eligible to enroll in a Child Health Plus (CHP) plan at full cost, effective September 1, 2016, for a limited time?

Procedural History

On May 31, 2016, your NYSOH application was updated, and your child was added to your account.

On June 1, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible for CHP for a limited time, with a \$45.00 monthly premium. The notice requested that you provide documentation confirming your household income before July 30, 2016, and documentation of your child's citizenship status and Social Security number (SSN) before August 29, 2016.

On June 4, 2016, NYSOH issued a notice confirming your child's enrollment in an Emblem Health CHP plan with a \$45.00 monthly premium, beginning July 1, 2016.

On August 13, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for a limited time to purchase a child-only qualified health plan at full cost, or to enroll in a full-price CHP plan, effective September 1, 2016. The notice further stated you needed to provide documentation of your child's citizenship status and SSN by September 6, 2016.

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That same day, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end effective August 31, 2016 because she was no longer eligible to remain enrolled in her current health insurance.

Also on August 13, 2016, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in an Emblem Health CHP plan with a \$319.85 monthly premium, beginning September 1, 2016.

On September 13, 2016, NYSOH issued a notice stating that your child was not eligible to enroll in coverage through NYSOH because you did not provide proof of her citizenship status and SSN. Her eligibility would end September 30, 2016.

Also on September 13, 2016, NYSOH issued a disenrollment notice, stating that your child's coverage in her CHP plan would end, effective September 30, 2016, because she was no longer eligible to enroll in health insurance through NYSOH.

That same day, your NYSOH account was updated.

On September 14, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible for CHP with a \$45.00 monthly premium, effective October 1, 2016.

Also on September 14, 2016, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in an Emblem Health CHP plan with a \$45.00 monthly premium, beginning October 1, 2016.

On September 12, 2016, you updated your NYSOH account.

On September 30, 2016, you spoke to NYSOH's Account Review Unit and appealed you're the August 13, 2016 eligibility determination, insofar as your child was not eligible for a CHP premium subsidy in the month of September 2016.

On January 23, 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 only appealing the fact that you had to pay the full CHP premium for your child for the month of September 2016.

- 2) You testified that you enrolled your child in coverage through NYSOH with the assistance of a broker, who filed the application on your behalf.
- 3) You testified that you were not aware that you had been enrolled to receive solely electronic alerts from NYSOH regarding notices in your NYSOH account.
- 4) You testified that, when you met with the broker to add your child to your account, you provided documentation regarding your employment and income to the broker, and were never informed that you needed to provide any further income documentation.
- 5) You testified that you did not receive any emails from NYSOH regarding notices in your account.
- 6) You testified that you did not review any notices in your NYSOH account because you were not aware that you were signed up for email alerts and not regular mail.
- 7) You testified that did not know that there was an issue with your child's premium subsidy until you received an invoice from Emblem Health for \$509.65, due by September 10, 2016.
- 8) You testified that you prepaid the \$45.00 CHP premium to Emblem Health for twelve months (\$540.00 total), so you did not understand why you were receiving an invoice from them.
- 9) You testified that the invoice you received also showed that your child's monthly premium had gone from \$45.00 to \$319.85.
- 10) You testified that you contacted Emblem Health regarding the increase in the premium amount, and were told that NYSOH had control over the cost of your child's premiums.
- 11) You testified that you contacted NYSOH and were told that your child had lost her CHP premium subsidy because you did not submit her SSN.
- 12) Your NYSOH account reflects that your child lost her eligibility for her premium subsidy prior to the deadline for submission of her citizenship status/SSN, but after the deadline for submission of income documentation.
- 13) You testified that, as soon as you were informed of the issue, you contacted NYSOH and re-enrolled your child into CHP, and got her

premium subsidy reinstated so that her monthly premium went back to \$45.00. You testified that you did not provide income documentation at that time, and were not asked to do so.

- 14) The record reflects that your child was found eligible for a premium subsidy again, effective October 1, 2016, and that no income documentation was requested in that eligibility determination.
- 15) You testified that you contacted Emblem Health to request that the money they took toward the full premium for September be credited back to you, but were told that you had to pursue this through NYSOH.

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 CHP 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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)).

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP 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 CHP coverage to continue without

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interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)). Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

The State of New York has provided that a child's period of eligibility for CHP 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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by 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 (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was eligible to enroll in a full cost CHP plan, and no longer eligible for a CHP premium subsidy, effective September 1, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH. When an application requests financial assistance, NYSOH must verify an applicant's household income.

If NYSOH cannot verify the household income attested to by the applicant, through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.

In the eligibility determination issued on June 1, 2016, you were advised that your child's eligibility for CHP at a monthly cost of \$45.00 was for a limited time, and that you needed to confirm your household's income by July 30, 2016. The

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notice also stated that you needed to provide documentation of her citizenship status and SSN by August 29, 2016.

You testified, and the record reflects, that, at that time, you were enrolled to receive email alerts regarding notices in your NYSOH account. However, you testified that you were unaware that you were enrolled to receive email alerts, and never received any emails from NYSOH. You further testified that you never reviewed any notices in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to submit income documentation or documentation of your child's citizenship/SSN, or that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Moreover, you testified that you updated your application on May 31, 2016 to add your child to your account with the assistance of a broker. You testified that you gave this broker documentation from your employer, and that he never told you that you needed to submit any additional documentation.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to provide documentation of your income or your child's citizenship status and SSN. For this reason, the August 13, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP premium subsidy for the month of September 2016, such that your premium for that month is \$45.00.

NYSOH is directed to coordinate with your child's CHP plan to ensure that you are credited for any amount over \$45.00 you paid in premiums for the month of September 2016.

Decision

The August 13, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP premium subsidy for the month of September 2016, such that your premium for that month is \$45.00.

NYSOH is directed to coordinate with your child's CHP plan to ensure that you are credited for any amount of \$45.00 that you paid in premiums for the month of September 2016.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

Your child should not have lost her CHP premium subsidy for the month of September 2016.

Your case is being sent back to NYSOH to reinstate your child's CHP premium subsidy for the month of September 2016, and to ensure that your child's CHP plan credits you for any premium payment over \$45.00 you made for September 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

The August 13, 2016 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's CHP premium subsidy for the month of September 2016, such that your premium for that month is \$45.00.

NYSOH is directed to coordinate with your child's CHP plan to ensure that you are credited for any amount of \$45.00 that you paid in premiums for the month of September 2016.

Your child should not have lost her CHP premium subsidy for the month of September 2016.

Your case is being sent back to NYSOH to reinstate your child's CHP premium subsidy for the month of September 2016, and to ensure that your child's CHP plan credits you for any premium payment over \$45.00 you made for September 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

