



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

Notice of Decision

Decision Date: March 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012386

[REDACTED]

Dear [REDACTED],

On March 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 10, 2016 eligibility determination and September 11, 2016 disenrollment 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 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

Decision Date: March 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012386



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 children's eligibility for and enrollment in their Child Health Plus plan ended effective September 30, 2016?

Procedural History

On January 7, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective February 1, 2016.

On January 15, 2016, NYSOH issued a notice confirming your children's enrollment in their Child Health Plus plan, effective February 1, 2016.

On July 6, 2016, you updated your household's application for financial assistance with health insurance.

On July 7, 2016, NYSOH issued a notice of eligibility determination, based on the July 6, 2016 application, stating that your children were eligible for Child Health Plus for a limited time with a \$45.00 per child monthly premium, effective August 1, 2016. The notice further directed you to provide documentation confirming your household's income before September 4, 2016.

On July 16, 2016, NYSOH issued a notice confirming your children's enrollment in their Child Health Plus plan, effective August 1, 2016.

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On September 10, 2016, NYSOH issued an eligibility determination notice stating that your children were newly eligible to purchase a qualified health plan at full cost. The notice stated that your children no longer qualified for Child Health Plus because NYSOH could not verify the income listed in your application. This eligibility was effective October 1, 2016.

On September 11, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their Child Health Plus plan would end as of September 30, 2016.

On October 4, 2016, you updated your household's application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your children were eligible to enroll in Child Health Plus with a \$30.00 per child monthly premium and you selected a plan for their enrollment.

Also on October 4, 2016 you spoke to NYSOH's Account Review Unit and appealed the termination of your children's Child Health Plus plan for the month of October 2016.

On October 5, 2016, NYSOH issue a notice of enrollment confirmation, based on your plan selection on October 4, 2016, stating that your children were enrolled in their Child Health Plus plan, effective November 1, 2016.

On October 9, 2016, NYSOH issued a notice of eligibility determination, based on your October 4, 2016 application, stating that your children were eligible for Child Health Plus for a limited time with a \$30.00 per child monthly premium, effective November 1, 2016. The notice further directed you to provide documentation confirming your household's income before December 3, 2016.

On March 15, 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 previously received all of your notices from NYSOH by electronic mail. You further testified that in August 2016 or September 2016 you updated your account preference to receive notices via regular mail.
- 2) You testified that you did not receive any electronic alerts in July 2016 notifying you of any notice in your NYSOH account stating that your

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children's eligibility was only conditional and that you needed to provide documentation of your household's income.

- 3) You testified that you did not know that your children had been disenrolled from their Child Health Plus plan until early October 2016.
- 4) Your NYSOH account indicates that on September 9, 2016 your household's application was run and your children were found no longer eligible for Child Health Plus as of September 30, 2016.
- 5) You updated the income information in your NYSOH account on October 4, 2016.
- 6) You testified that you are seeking reinstatement of your children's Child Health Plus plan 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

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income between 138% and 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

"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.

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State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

The State of New York has elected to provide presumptive eligibility to children if the child appears eligible for coverage but is missing one or more documents needed to verify eligibility. A child 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).

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 children's eligibility for and enrollment in a Child Health Plus plan ended effective September 30, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in Child Health Plus, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's income documentation, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on July 7, 2016, you were advised that your children were eligible for Child Health Plus for a limited time, and that you needed to confirm your household's income before September 4, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

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However, you testified that you had previously elected to receive alerts regarding notices from NYSOH electronically, and did not change this preference until August 2016 or September 2016. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which advised you that your children's eligibility was only conditional and that you needed to submit documentation to confirm your household's income. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your household's income in order to confirm your children's eligibility for Child Health Plus.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the September 10, 2016 eligibility determination and September 11, 2016 disenrollment notices, stating that your children were no longer eligible for Child Health Plus because you failed to submit documentation are RESCINDED.

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

Decision

The September 10, 2016 notice of eligibility determination is RESCINDED.

The September 11, 2016 notice of disenrollment is RESCINDED.

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

Effective Date of this Decision: March 20, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your children's Child Health Plus plan effective September 30, 2016, without the proper notice.

Your case is being sent back to NYSOH to reinstate your children's coverage in their Child Health Plus as of October, 2016.

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 decision has no effect on any subsequent determinations made by NYSOH.

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
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- By fax: 1-855-900-5557

Summary

The September 10, 2016 notice of eligibility determination is RESCINDED.

The September 11, 2016 notice of disenrollment is RESCINDED.

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NYSOH erred in terminating your children's Child Health Plus plan effective September 30, 2016, without the proper notice.

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

This decision has no effect on any subsequent determinations made by NYSOH.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

