



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

Notice of Decision

Decision Date: February 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012620

[REDACTED]

Dear [REDACTED]

On February 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 12, 2016 eligibility determination and October 12, 2016 enrollment confirmation 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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NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health provide a timely determination of your daughter's Child Health Plus eligibility as of November 1, 2016?

Did NY State of Health properly determine that your daughter's eligibility for and enrollment in her Child Health Plus plan begin on November 1, 2016?

Procedural History

On August 1, 2016, NY State of Health (NYSOH) received your updated application for financial assistance with your daughter's health insurance.

On August 2, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by August 16, 2016.

On August 12, 2016, August 19, 2016, and August 22, 2016 income documentation was uploaded to your NYSOH account.

On August 25, 2016, NYSOH reviewed these income documents and determined they were insufficient as your significant other did not submit any income documentation and two of the paystubs you submitted were outside of thirty days from the date of your application.

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On August 26, 2016, NYSOH issued a notice advising you that the income documentation you submitted did not confirm the income information in your application, and that additional income documentation was needed.

On September 3, 2016, NYSOH redetermined your daughter's eligibility for financial assistance with health insurance.

On September 4, 2016, NYSOH issued a notice of eligibility determination finding your daughter eligible to purchase a qualified health plan at full cost through NYSOH.

On September 17, 2016, September 19, 2016, September 20, 2016, and September 27, 2016, additional income documentation was uploaded to your NYSOH account.

On October 11, 2016, NYSOH reviewed the paystubs you uploaded as documentation and a new application was submitted on your behalf.

On October 12, 2016, NYSOH issued an eligibility determination notice was issued finding your daughter eligible for Child Health Plus, effective November 1, 2016.

Also on October 12, 2016, NYSOH issued an enrollment confirmation notice, confirming your daughter's enrollment in a Child Health Plus plan.

On October 18, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your daughter's Child Health Plus plan, requesting that it begin September 1, 2016.

On February 9, 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, and the record reflects, that you are appealing your daughter's start date of her Child Health Plus plan.
- 2) You testified, and your NYSOH account confirms, that NYSOH received your application for financial assistance for your daughter on August 1, 2016.

- 3) You testified, and submitted documentation that reflects, that your daughter previously had Medicaid through your Local Department of Social Services, which coverage ended as of September 1, 2016.
- 4) You testified that there is no legal relationship between your significant other and your daughter. You further testified that your significant other has not adopted your daughter.
- 5) You testified that your daughter's father does not reside with yourself or your daughter.
- 6) The application that was submitted on August 1, 2016 indicated that you will file your tax return with a tax filing status of head of household and will claim your daughter and your son on your application. That same application indicates that neither your daughter or your son has income nor will they file a tax return.
- 7) The fax line indicates that on August 2, 2016 you submitted documentation of your income in the form of paystubs and a payment check listing from your employer to NYSOH for verification of the income stated in your August 1, 2016 application. This documentation was uploaded by NYSOH to your NYSOH account on August 12, 2016.
- 8) You submitted paystubs for pay date June 24, 2016, July 1, 2016, July 15, 2016, July 22, 2016, and July 29, 2016.
- 9) You also submitted a payment check listing from your employer showing payments for pay date July 1, 2016, July 8, 2016, July 15, 2016, July 22, 2016, and July 29, 2016.
- 10) On August 25, 2016, these paystubs were deemed insufficient proof of income by NYSOH.
- 11) On September 17, 2016, September 19, 2016, September 20, 2016, and September 27, 2016 additional income documentation was uploaded to your NYSOH account.
- 12) You testified that you want your daughter's Child Health Plus plan to begin on September 1, 2016, so that she does not experience a gap in coverage. You further testified that your daughter does have outstanding medical bills for the period for which she had no coverage.

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

Applicable Law and Regulations

Household Composition

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 at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) §2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (PHL Law §2511(2)(b)). 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).

In order to determine the relevant FPL, the household size must be determined. In the case of an individual who expects to be claimed as a tax dependent by another taxpayer, the household is typically the household of the taxpayer claiming the individual as a dependent (42 CFR §435.603(f)(2)).

The household size of a taxpayer is determined by their tax filing status and the number of dependents they will claim on their tax return (42 CFR §435.603(f)).

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.

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

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Timely Notice of Child Health Plus Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)). NYS has elected to use a common application for Medicaid and Child Health Plus, therefore the timeliness standards for Child Health Plus determinations are the same as those for Medicaid determinations (see State Plan Amendment NY-CSPA-19, approved March 22, 2012 and effective November 11, 2011).

Legal Analysis

The first issue is whether NYSOH provided you with a timely determination of your daughter's Child Health Plus eligibility as of November 1, 2016.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

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In the present instance, your daughter's household for purposes of determining eligibility for financial assistance with health insurance includes yourself, your daughter, and your son.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your NYSOH account on August 1, 2016. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On August 2, 2016, you submitted a copy of your paystubs as well as a payment check listing from your employer.

On August 25, 2016, NYSOH deemed these documents insufficient proof of income as you had not submitted four consecutive weeks of earnings records for the thirty-day period prior to your August 1, 2016 application for yourself and had submitted no earnings records for your significant other.

However, you did submit evidence of six consecutive weeks of pay in the form of your paystubs and the payment check listing.

Additionally, as your significant other is not part of your daughter's household for purposes of determining her eligibility for financial assistance, NYSOH improperly determined that his income was required in order to determine your daughter's eligibility.

Therefore, your application was complete as of August 2, 2016 for purposes of issuing an eligibility determination.

NYSOH must provide applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility determination notice on October 12, 2016 that stated your daughter was eligible for Child Health Plus effective November 1, 2016. Since NYSOH issued an eligibility determination 71 days from the date your application was complete, the October 12, 2016 eligibility determination was untimely.

The second issue is whether NYSOH properly determined that your daughter's eligibility for and enrollment in her Child Health Plus plan was effective November 1, 2016.

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.

You submitted your income documents on August 2, 2016. Had NYSOH properly verified your income documentation, your daughter's Child Health Plus eligibility could have been determined as soon as August 2, 2016. Had NYSOH issued an eligibility determination on August 2, 2016, your daughter's eligibility for a Child Health Plus plan would have begun on the first day of the month following August 2, 2016, that is, on September 1, 2016. You also would have been able to select a Child Health Plus plan for enrollment as soon as August 2, 2016. Were you able to select a Child Health Plus plan as of August 2, 2016, your daughter's enrollment in her Child Health Plus plan would have taken effect on the first day of the first month following after August 2, 2016; that is, on September 1, 2016.

Therefore, the October 12, 2016 eligibility determination notice and October 12, 2016 enrollment confirmation notice are MODIFIED to state that your daughter's eligibility for and enrollment in her Child Health Plus plan were effective September 1, 2016.

The case is RETURNED to NYSOH to enroll your daughter in her Child Health Plus plan as of September 1, 2016.

Decision

The October 12, 2016 eligibility determination notice is MODIFIED to state that your daughter is eligible for Child Health Plus effective September 1, 2016.

The October 12, 2016 enrollment confirmation notice is MODIFIED to state that your daughter is enrolled in her Child Health Plus plan effective September 1, 2016.

The case is RETURNED to NYSOH to enroll your daughter in her Child Health Plus plan as of September 1, 2016.

Effective Date of this Decision: February 15, 2017

How this Decision Affects Your Eligibility

Your daughter is eligible for Child Health Plus as of September 1, 2016.

Your case is being sent back to NYSOH to enroll your daughter into her 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.

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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- By fax: 1-855-900-5557

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Summary

The October 12, 2016 eligibility determination notice is MODIFIED to state that your daughter is eligible for Child Health Plus effective September 1, 2016.

Your daughter is eligible for Child Health Plus as of September 1, 2016.

The October 12, 2016 enrollment confirmation notice is MODIFIED to state that your daughter is enrolled in her Child Health Plus plan effective September 1, 2016.

The case is RETURNED to NYSOH to enroll your daughter in her Child Health Plus plan as of September 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:

