



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

Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012745

[REDACTED]

Dear [REDACTED]

On February 14, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 2016 eligibility determination notice, August 2, 2016 disenrollment notice, October 21, 2016 eligibility determination, and October 21, 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 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.

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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 properly determine that your youngest daughter's eligibility for financial assistance and enrollment in a qualified health ended effective August 31, 2016?

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

Procedural History

On April 19, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your youngest daughter was conditionally eligible to purchase a qualified health plan at full cost through NYSOH, effective June 1, 2016. The notice further requested that you provide documentation confirming your daughter's citizenship status and Social Security number before July 17, 2016.

Also on April 19, 2016, NYSOH issued a notice confirming your youngest daughter's enrollment in a qualified health plan.

On August 2, 2016, NYSOH issued an eligibility determination notice stating that your youngest daughter was not eligible to enroll in a qualified health plan at full cost because you had not confirmed her citizenship status or Social Security

number within the required timeframe. Your youngest daughter's eligibility for coverage ended effective August 31, 2016.

On October 20, 2016, NYSOH received your updated application for health insurance.

On October 21, 2016, NYSOH issued a notice of eligibility determination, based on your October 20, 2016 application, stating that your youngest daughter was eligible to enroll in Child Health Plus, effective December 1, 2016.

Also on October 21, 2016, NYSOH issued a notice of enrollment, based on your plan selection on October 20, 2016, stating that your youngest daughter was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start December 1, 2016.

On October 24, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest daughter's Child Health Plus plan insofar as she was without coverage for the months of September 2016, October 2016, and November 2016.

On February 13, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On February 14, 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 your NYSOH account confirms, that your youngest daughter was born [REDACTED]
- 2) You testified that you first applied for health insurance through NYSOH for your youngest daughter around the time of her birth. You further testified that you were advised at that time that you would need to provide your youngest daughter's Social Security number when it became available.
- 3) You testified that you are not sure when you received your youngest daughter's Social Security number. You further testified that you did not contact NYSOH to advise NYSOH that you did not have or would

not have your youngest daughter's Social Security number by the July 17, 2016 deadline.

- 4) The enrollment portion of your NYSOH account reflects that your youngest daughter was enrolled in her full cost qualified health plan as of April 1, 2016.
- 5) You testified that you had previously elected to receive electronic alerts from NYSOH.
- 6) You testified that you were receiving the electronic alerts from NYSOH advising you that a new notice had been uploaded to your NYSOH account, however, you were having trouble opening the notices from your NYSOH account.
- 7) You testified that you changed the preference of how you receive your notices from NYSOH from paperless to regular mail following learning that your youngest daughter had been disenrolled from her qualified health plan.
- 8) You testified that you had forgotten that you needed to submit your youngest daughter's Social Security number until mid-October 2016 when you discovered that your youngest daughter had been disenrolled from her qualified health plan
- 9) The record reflects that on October 20, 2016, you provided NYSOH with your youngest daughter's Social Security number and updated your household's application for health insurance.
- 10) You testified that you are seeking for your youngest daughter to be enrolled in coverage for the months of September 2016, October 2016, and November 2016.

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

Applicable Law and Regulations

Citizenship and Immigration Status

To enroll in a qualified health plan through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen who is lawfully present in the United States and reasonably expects to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

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NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in a qualified health plan, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with notice of the inconsistency. NYSOH must then provide the applicant with 90 days to provide satisfactory documentary evidence, from the date the notice of inconsistency is received by the applicant. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period. (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR §155.230(d); 42 CFR §435.918(b)(4)).

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

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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 first issue under review is whether NYSOH properly determined that your youngest daughter was no longer eligible to enroll in a qualified health plan through NYSOH, effective August 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on April 19, 2016 you were advised that your youngest daughter's eligibility was only conditional, and that you needed to confirm her citizenship status and Social Security number before July 17, 2016.

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

You testified and the record reflects that you had previously elected to receive alerts regarding notices from NYSOH electronically. You testified that you did receive an electronic alert regarding the eligibility determination notice, which directed you that your youngest daughter's eligibility was only conditional and that you needed to submit documentation to confirm her citizenship status. However, you testified that upon accessing your NYSOH account, you were unable to open the notice.

As NYSOH did send you an electronic alert, advising you that a new notice had been uploaded to your account, NYSOH properly notified you of an inconsistency in your account and you did not submit the requested citizenship documentation or Social Security number before the deadline.

If NYSOH remains unable to verify the inconsistency after the 90 day period ends, then it must determine the applicant's eligibility based on the information available in the data sources.

Since the requested citizenship documentation and Social Security number was not received within the 90-day period, NYSOH was required to redetermine your youngest daughter's eligibility without verification of her citizenship status. As a result, NYSOH properly determined that your youngest daughter could not enroll in a qualified health plan through NYSOH effective August 31, 2016 because you did not provide the information requested by NYSOH.

Therefore, NYSOH's August 2, 2016 eligibility determination notice and August 2, 2016 disenrollment notice are correct and are AFFIRMED.

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

The record reflects that you contacted NYSOH on October 20, 2016 and provided NYSOH with your youngest daughter's Social Security number.

That same day, you enrolled your youngest daughter into a Child Health Plus plan.

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.

On October 20, 2016, you selected a Child Health Plan for your youngest daughter, so her enrollment properly took effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 21, 2016 eligibility determination notice and October 21, 2016 enrollment confirmation notice stating that your youngest daughter's eligibility for and enrollment in her Child Health Plus plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

The August 2, 2016 notice of eligibility determination is AFFIRMED.

The August 2, 2016 disenrollment notice is AFFIRMED.

The October 21, 2016 notice of eligibility determination is AFFIRMED.

The October 21, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: February 28, 2017

How this Decision Affects Your Eligibility

NYSOH properly found your youngest daughter not eligible to enroll in a qualified health plan because you did not submit proof of her citizenship status or Social Security number.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan is December 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 after 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

Summary

The August 2, 2016 notice of eligibility determination is AFFIRMED.

The August 2, 2016 disenrollment notice is AFFIRMED.

NYSOH properly found your youngest daughter not eligible to enroll in a qualified health plan because you did not submit proof of her citizenship status or Social Security number.

The October 21, 2016 notice of eligibility determination is AFFIRMED.

The October 21, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan is December 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:

