



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

Notice of Decision

Decision Date: February 3, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012818

[REDACTED]

Dear [REDACTED]

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 3, 2016 and October 26, 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 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).

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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 properly determine that your children's enrollment in their Child Health Plus plan was terminated effective July 31, 2016 and terminated again effective October 1, 2016, for non-payment of premium?

Did the NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective thereafter as of December 1, 2016?

Procedural History

On February 27, 2016, NY State of Health (NYSOH) issued a notice of eligibility redetermination that in part stated your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective April 1, 2016.

Also on February 27, 2016, NYSOH issued an enrollment notice confirming your children's enrollment in a Child Health Plus plan with a start date of April 1, 2016.

On August 14, 2016, a disenrollment notice was issued by NYSOH terminating coverage for your children's Child Health Plus plan, effective July 31, 2016. The reason stated was because premium payments had not been received by the health plan within the required time frame to maintain coverage.

On September 2, 2016, you updated your NYSOH account.

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On September 3, 2016, NYSOH issued a notice of eligibility redetermination, based on your Sept 2, 2016 updated application, stating in part that your children were eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective October 1, 2016.

Also on September 3, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 2, 2016, confirming your children's enrollment in a Child Health Plus plan with a start date of October 1, 2016.

On October 17, 2016, a cancellation notice was issued by NYSOH cancelling your children's coverage in their Child Health Plus plan, effective October 1, 2016. The reason stated was because premium payments had not been received by the health plan within the required time frame in order for coverage to begin.

On October 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the September 3, 2016 eligibility determination notice and the September 3, 2016 enrollment notice, insofar as your children's Child Health Plus coverage did not begin on September 1, 2016. You also appealed the October 17, 2016 cancellation notice. Additionally, you appealed the October 26, 2016 enrollment notice that stated your children's Child Health Plus plan would start on December 1, 2016.

On October 26, 2016, NYSOH issued an enrollment notice, based on your plan selection on October 25, 2016, confirming your children's enrollment in a Child Health Plus plan with a start date of December 1, 2016.

On December 21, 2016, you and the mother of the children had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until January 4, 2016 for the submission of further documents. On December 22, 2016, NYSOH Appeals Unit received your two-page fax which was a copy of an emergency physician charge, dated September 12, 2016. That document was made part of the record as Appellant's Exhibit # 1. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing the four-month gap in your children's Child Health Plus coverage for the months of August 2016, September 2016, October 2016 and November 2016. You testified that you need to have your children's Child Health Plus coverage begin at least by September 1, 2016.

- 2) According to your NYSOH account, your children were initially disenrolled from their Child Health Plus plan, effective July 31, 2016, because the Child Health Plus plan had not timely received a monthly premium payment from you.
- 3) You testified that you do not recall receiving the August 14, 2016 disenrollment notice in this regard.
- 4) According to your NYSOH account, you receive your notices by regular mail.
- 5) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable
- 6) You submitted an updated application to NYSOH for financial assistance on September 2, 2016.
- 7) According to your NYSOH account and your testimony, you re-enrolled your children into a Child Health Plus plan on September 2, 2016 with an effective start date of October 1, 2016.
- 8) You testified that you spoke with both the Child Health Plus plan and NYSOH on numerous occasions attempting to resolve the billing payment issue.
- 9) You testified that you had set up an automatic payment from your bank account, but there was an issue with the payments being made by the bank.
- 10) You testified that you went to the Child Health Plus plan office and a person there told you that, if you payed, they could immediately reinstate your children.
- 11) You testified that you spoke with NYSOH and they told you it was up to the Plan to accept your request to backdate your children's insurance coverage to the month of September 2016.
- 12) You testified that you tried to make payment for the months of September 2016 and October 2016 but the Child Health Plus plan would not accept payment for September 2016. You further testified that the Child Health Plus plan did not accept the October 2016 payment either.
- 13) You testified that you had to take one of your children to the emergency room in September 2016. You have a substantial bill for services for this September 12, 2016 emergency room treatment which is unpaid because

your children did not have coverage in September 2016. (see Appellant Exhibit #1).

14) According to your NYSOH account and your testimony, you updated your account on October 25, 2016 and the children were determined eligible for Child Health Plus effective December 1, 2016. You enrolled the children in a Child Health Plus plan with an effective date of December 1, 2016.

15) You testified that you need your children's Child Health Plus plan to begin on September 1, 2016 because of outstanding medical bills for the September 12, 2016 emergency room treatment.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

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 first issue is whether NYSOH properly determine that your children's enrollment in their Child Health Plus plan was terminated effective July 31, 2016 and terminated again effective October 1, 2016; each time for non-payment of premium.

The record indicates that on February 26, 2016, your children were enrolled in a Child Health Plus plan through NYSOH. Their coverage under this plan was effective April 1, 2016. The Child Health Plus plan had premium payments due of \$27.00 per month.

The record reflects that, on August 14, 2016, NYSOH issued a disenrollment notice regarding your children's Child Health Plus coverage for non-payment of premium with coverage terminating effective July 31, 2016.

You testified that you did not receive any notice from NYSOH telling you that your children had been disenrolled from their Child Health Plus plan. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. As such, the notice is deemed to have been sent and received.

Therefore, NYSOH properly notified you of your children's disenrollment from their Child Health Plus plan effective July 31, 2016.

You requested an appeal to dispute your children's disenrollment from their Child Health Plus plan coverage for non-payment of premium. You testified you were making premium payments by automatic bank withdrawal and were unaware that there was an issue with payments not being made properly.

You testified that when you did become aware of the issue you had several conversations with both the Child Health Plus plan and with NYSOH. You tried to make payment for the months of September 2016 and October 2016 but the health plan would not accept the September 2016 payment. As a result of this confusion, the health plan also did not accept the October 2016 payment and

NYSOH issued the cancellation notice terminating the children's coverage effective October 1, 2016, as well.

You then re-enrolled the children in their Child Health Plus plan on October 25, 2016 with a plan enrollment start date of December 1, 2016.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit does not have the authority to review termination of enrollment due to nonpayment of premiums as it is a contractual issue between the insured and the insurer, we cannot reach the merits as to whether your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the both in the August 14, 2016 disenrollment notice and the October 17, 2016 cancellation notices are DISMISSED as non-appealable issues.

The remaining issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was next effective December 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 testified, and the record reflects, that you contacted NYSOH on October 25, 2016 and re-enrolled your children into a Child Health Plus plan on that date. Therefore, their enrollment properly took effect on the first day of the second month following October 2016; that is, on December 1, 2016.

Therefore, the October 26, 2016 enrollment notice confirming your children's re-enrollment in their Child Health Plus plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeal of the August 14, 2016 disenrollment notice is DISMISSED as a non-appealable issue.

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).

Your appeal of the October 17, 2016 cancellation notice is DISMISSED as a non-appealable issue.

The October 26, 2016 enrollment notice as it applies to your children's Child Health Plus plan start date is AFFIRMED.

Effective Date of this Decision: February 3, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

Effective July 31, 2016, your children were disenrolled from their Child Health Plus plan due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

Effective October 1, 2016, your children's coverage in their Child Health Plus plan was cancelled due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

The effective date of your children's re-enrollment in their 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 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

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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

Your appeal of the August 14, 2016 disenrollment notice is **DISMISSED** as a non-appealable issue.

Your appeal of the October 17, 2016 cancellation notice is **DISMISSED** as a non-appealable issue.

The October 26, 2016 enrollment notice as it applies to your children's Child Health Plus plan start date is **AFFIRMED**.

This decision does not change your children's eligibility.

Effective July 31, 2016, your children were disenrolled from their Child Health Plus plan due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

Effective October 1, 2016, your children's coverage in their Child Health Plus plan was cancelled due to nonpayment of premium; an issue NYSOH Appeals Unit is not authorized to address.

The effective date of your children's re-enrollment in their Child Health Plus plan is December 1, 2016.

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Legal Authority

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

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A Copy of this Decision Has Been Provided To:

