



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

Notice of Decision

Decision Date: January 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012914

[REDACTED]

[REDACTED]

On January 24, 2017, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2015 disenrollment notice for your son.

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 § 155.545.

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012914

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Issue

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

Did NY State of Health properly determine that your son's eligibility for and enrollment in his Child Health Plus plan ended as of December 31, 2015?

Procedural History

On October 22, 2015, NYSOH issued a notice stating that it was time to renew your child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for his health insurance, and that you needed to update your account by December 15, 2015 or your child might lose the financial assistance he had been receiving.

No updates were made to your account by December 15, 2015.

On December 21, 2015, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your child's eligibility ended effective December 31, 2015.

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On December 22, 2015, NYSOH issued a notice confirming that your child would be disenrolled from his Child Health Plus coverage effective December 31, 2015.

On October 28, 2016, NYSOH received your child's updated application for health insurance.

On October 28, 2016 you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your son from his Child Health Plus plan, as well as the start date of your child's Child Health Plus plan insofar as it did not begin on January 1, 2016.

On October 29, 2016 NYSOH issued a notice of eligibility determination, based on that application, stating that your child was eligible to enroll in a Child Health Plus plan, effective December 2, 2016 with a \$45.00 monthly premium.

Also on October 29, 2016, NYSOH issued a notice of enrollment, based on your plan selection on October 28, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on December 1, 2016.

On January 24, 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 account reflects, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that every time you get an email alert, you log into your NYSOH account and read the notice the alert references.
- 3) You testified that you had previously successfully received email alerts from NYSOH; however, you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application in order to renew your child's coverage. You also did not receive any alert regarding your child's disenrollment from coverage, nor did you receive these notices by regular mail.
- 4) There is no evidence in your account that shows any email alerts were sent to you.

- 5) You testified that you did not receive any notice from either NYSOH or your son's Child Health Plus plan that his coverage had ended. Your son's Child Health Plus plan had not returned the premiums you had paid in advance at the time you found out his coverage had been cancelled.
- 6) You testified that when you enrolled your son in coverage for 2016, you paid the premium for the entire year at once. You submitted an invoice from your son's Child Health Plus plan, dated December 8, 2015, which shows there was a credit of \$347.84 on his account for the upcoming year at that time (Appellant's Exhibit #1).
- 7) You testified that you did not know that you needed to update your account until October 2016, when you received a bill for a doctor's visit for your son from February 2016 (Appellant's Exhibit #2).
- 8) When your son needed to go to the doctor in December 2016, you brought him for treatment outside of his Child Health Plus plan, because you knew by then the enrollment through NYSOH had purportedly ended.
- 9) On October 28, 2016, NYSOH received your son's updated application for health insurance.
- 10) You testified that you are no longer interested in backdating your son's coverage to January 1, 2016, because it is too late, and you have already had the expense of another uncovered doctor's visit. However, you already paid the premiums for 2016, and you are concerned about the penalty you may incur for your son not having health insurance for 2016, despite your having paid the premiums.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice within a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the

coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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

Electronic Notices

If the individual elects to receive electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your son’s eligibility for and enrollment in his Child Health Plus plan ended as of December 31, 2015.

Your son had previously been enrolled in his Child Health Plus for 2015.

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Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 22, 2015 renewal notice stated that there was not enough information to determine whether your son was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your son's coverage in his Child Health plus plan was terminated effective December 31, 2015.

However, you testified and your account reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you always checked your account when you received an alert, and you did not receive any electronic alerts regarding the renewal notice that told you of the need to renew your son's application, or his later disenrollment from his plan. There is no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's/children's application, nor is there any evidence that the renewal notice or the disenrollment notice were sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your son's behalf, and his coverage should not have ended.

When you renewed your child's application on October 28, 2016, your son was again found eligible for a Child health Plus plan for 2016. Had you been advised of the need to update his coverage, your son would have had coverage for all of 2016. This is further corroborated by the fact that you had already paid the entire premium for 2016.

It is noted that the plan still had not returned the premium to you by October 2016. Had it done so, you would have been made aware that your son's coverage had been terminated far earlier.

Ordinarily, the Appeals Unit would direct that your son's coverage in the Child Health Plus plan be backdated to January 1, 2016. However, is now too late for you to take advantage of any such coverage, as the year is over.

Therefore, the Appeals Unit of NYSOH finds that the December 22, 2015 disenrollment notice improperly disenrolled your son from his Child Health Plus plan, with the appropriate notice to you.

Your son was therefore without coverage for much of 2016, unknown to you, and through no fault of your own.

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The record indicates that NYSOH's failure to provide you notice of the need to update your application resulted in your son being without insurance coverage for part of the 2016 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty as a result of being without coverage.

The Appeals Unit of NYSOH has now found that your appeal was in fact successful, but that it is too late to remedy NYSOH's earlier errors.

Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2016 if you did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you may need to file an amended return later.

Decision

The Appeals Unit of NYSOH finds that the December 22, 2015 disenrollment notice improperly disenrolled your son from his Child Health Plus plan, with the appropriate notice to you.

If you wish to apply for an exemption from the requirement to have health insurance for your son, you must apply through the federal government as noted above.

You have opted not to have your son's coverage in his Child Health Plus plan backdated to January 1, 2016, as it would not be of any use at this late date. Therefore, his coverage will not be backdated.

Effective Date of this Decision: January 27, 2017

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How this Decision Affects Your Eligibility

You have opted not to have your son's coverage in his Child Health Plus plan backdated to January 1, 2016, as it would not be of any use at this late date. Therefore, his coverage will not be backdated.

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 Appeals Unit of NYSOH finds that the December 22, 2015 disenrollment notice improperly disenrolled your son from his Child Health Plus plan, with the appropriate notice to you.

If you wish to apply for an exemption from the requirement to have health insurance for your son, you must apply through the federal government as noted above.

You have opted not to have your son's coverage in his Child Health Plus plan backdated to January 1, 2016, as it would not be of any use at this late date. Therefore, his coverage will not be backdated.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

