



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012938

[REDACTED]

[REDACTED]

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 17, 2016 eligibility determination and the October 29, 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012938



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 child's eligibility for and enrollment in her Child Health Plus plan was effective December 1, 2016?

Procedural History

On December 13, 2013, NY State of Health (NYSOH) issued a notice stating that you have chosen to receive all information from NYSOH electronically.

On July 9, 2014, NYSOH issued an enrollment confirmation notice, based on your July 8, 2014 plan selection, stating that your child was enrolled in a Child Health Plus (CHP) plan, effective August 1, 2014.

On July 15, 2015, NYSOH issued an enrollment notice confirming your child's enrollment in CHP, effective May 1, 2015.

On June 3, 2016, NYSOH issued a notice that it was time to renew your child's health insurance for 2016. 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 her health coverage, and that you needed to update your account by July 15, 2016 or your child might lose the financial assistance she was currently receiving.

No updates were made to your account by July 15, 2016.

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On July 17, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, 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 your child's renewal within the required time frame. Your child's eligibility ended July 31, 2016.

Also on July 17, 2016, NYSOH issued a disenrollment notice stating that your child's CHP would end July 31, 2016. This was because you did not renew her coverage within the required timeframe.

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

On October 29, 2016, NYSOH issued a notice of eligibility determination, based on your October 28, 2016 updated application, stating that your child was eligible to enroll in CHP with a \$15.00 monthly premium, effective December 1, 2016.

Also on October 29, 2016, NYSOH issued an enrollment notice, based on your plan selection on October 28, 2016 confirming your child's enrollment in a CHP plan with a December 1, 2016 start date.

On October 31, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as it did not begin August 1, 2016.

On December 22, 2016, 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) According to your NYSOH account and your testimony, at all times relevant, you received all of your notices from NYSOH by electronic mail.
- 2) You testified that a NYSOH representative advised you by telephone that your notices were being sent via electronic mail to an old email address from a prior employer. You further testified that this account was set up for your employer and you no longer have access to this email.
- 3) You testified that you did not know that when the account was set up for electronic mail notifications and that you received all of your

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previous Medicaid notifications and billing statements via regular mail. You never wanted email notifications and were previously receiving Medicaid notifications in the mail.

- 4) According to your NYSOH account and your testimony, on October 28, 2016, you requested that all your notices be sent via regular mail going forward. This was the first time you were notified you were previously receiving electronic mail notifications.
- 5) You testified that since you were being billed by the CHP plan via regular mail, you believed that all of your notices were being sent in the same manner.
- 6) You testified that you paid your premiums for August 2016, September 2016, and October 2016, and you now have a \$27.00 credit because your child's premium was \$9.00 per month at the time.
- 7) You testified that you did not receive the electronic renewal notice telling you that you needed to update your application in order to renew your child's coverage for 2016.
- 8) You testified that you realized you needed to update your child's application for health insurance on or about September 22, 2016 when one of your child's specialists advised you by telephone that your child was no longer had health insurance coverage.
- 9) According to your NYSOH account, on October 28, 2016, NYSOH received your child's updated application for health insurance.
- 10) You testified that you are seeking to have your child's CHP plan reinstated as of August 1, 2016.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

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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 after 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 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 child's eligibility for and enrollment in her CHP plan was effective December 1, 2016.

Originally, your child was found eligible for and re-enrolled in CHP, effective August 1, 2015.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH determined that your child's CHP coverage was due to end on July 31, 2016 and it issued a renewal notice dated June 3, 2016 stating that there was not enough information to determine whether your child was eligible to continue their financial assistance for health insurance. You were instructed by that notice to supply additional information by July 15, 2016, or her financial assistance might end.

You testified that you did not receive the electronic renewal notice telling you that you needed to update your application in order to renew your child's coverage because your notices were being sent via electronic mail to an old email address from a prior employer, which you no longer have access to. You further testified that you were unaware that when the account was set up, it was set up using electronic mail notifications and that you had received all your previous notifications from Medicaid and billing statements by regular mail. As a result, you did not submit an updated application prior to July 15, 2016. Because there was no timely response to the June 3, 2016 renewal notice, your child was disenrolled from her Child Health Plus plan, effective July 31, 2016.

According to your NYSOH account, you elected to receive alerts regarding notices from NYSOH electronically. In fact, a letter dated December 13, 2013, states that you requested to receive all information from the NY Marketplace electronically.

However, you testified that you never requested email notifications on your account, were unaware that you were receiving email notifications from NYSOH and that you previously received Medicaid notifications and billing statements from the health plan via regular mail. Additionally, according to your NYSOH account and your testimony, on October 28, 2016, once you found out you were receiving email notifications to an incorrect email address, you changed your notification preferences to begin receiving notifications by regular mail. Since, there is no way to know how it came to be that your account was originally set up for email notifications, absent any further evidence that you knowingly set up the account in this manner, it can be inferred that when NYSOH set you up with email notifications, it was in error on the part of NYSOH.

Because NYSOH erred in sending you notifications by email, instead of regular mail, you did not receive your child's June 3, 2016 renewal notice. Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on behalf of your child.

You first renewed your child's eligibility for financial assistance through NYSOH for 2016 on October 28, 2016 and, therefore, we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the October 29, 2016 notice of eligibility redetermination is MODIFIED to state that, effective August 1, 2016, your child was eligible to enroll in CHP with a \$15.00 premium per month, and the October 29, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP plan as of August 1, 2016.

Decision

The October 29, 2016 notice of eligibility redetermination is MODIFIED to state that, effective August 1, 2016, your child was eligible to enroll in CHP with a \$15.00 premium per month.

The October 29, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective August 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in her CHP plan as of August 1, 2016.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in her CHP plan should have been effective as of August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child in her CHP plan as of August 1, 2016.

You will be responsible for any premiums due beginning with August 2016 and the following months in which your child's coverage is reinstated.

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).

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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P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The October 29, 2016 notice of eligibility redetermination is MODIFIED to state that, effective August 1, 2016, your child was eligible to enroll in CHP with a \$15.00 premium per month.

The October 29, 2016 notice of enrollment confirmation is MODIFIED to state that your child's enrollment in her CHP plan is effective August 1, 2016.

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Your case is RETURNED to NYSOH to reinstate your child in her CHP plan as of August 1, 2016.

Your child's eligibility for and enrollment in her CHP plan should have been effective as of August 1, 2016.

Your case is being sent back to NYSOH to reinstate your child in her CHP plan as of August 1, 2016.

You will be responsible for any premiums due beginning with August 2016 and the following months in which your child's coverage is reinstated.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

