



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

Notice of Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013956

[REDACTED]

Dear [REDACTED],

On March 9, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2016 eligibility determination notice and the November 23, 2016 disenrollment 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013956

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your child's eligibility for and enrollment in Child Health Plus terminated as of November 30, 2016?

Procedural History

On September 16, 2015, NYSOH issued a renewal and eligibility determination notice, based on your information about you from state and federal data sources as of September 10, 2015, stating that your child was still eligible for Child Health Plus (CHP) at full cost, effective December 1, 2015. Your child was subsequently enrolled in a CHP plan.

On October 10, 2016, NYSOH issued a notice that it was time to renew your child's health insurance. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your child qualified for financial help paying for his coverage. The notice asked that you update the information in your account by November 15, 2016 or the financial assistance your child was receiving may end.

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

On November 17, 2016, NYSOH issued an eligibility determination notice stating that effective December 1, 2016 your child was no longer eligible for health

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insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

On November 23, 2016, NYSOH issued a disenrollment notice stating that your child's coverage through his CHP plan would end November 30, 2016 because you did not renew his health insurance coverage.

On December 10, 2016, NYSOH received your child's updated application for health insurance.

On December 11, 2016, NYSOH issued an eligibility determination notice, based on your December 10, 2016 application, stating that your child was eligible to enroll in CHP at full cost, effective January 1, 2017.

Also on December 11, 2016, NYSOH issued an enrollment notice, based on your plan selection on December 10, 2016, stating that your child was enrolled in a CHP plan and that his coverage would start on January 1, 2017.

On December 12, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as he did not have coverage for the month of December 2016.

On March 9, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse also attended the hearing as a witness. 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 that you are only appealing your child's disenrollment from his CHP plan for the month of December 2016
- 2) Your account reflects that you previously received all of your notices from NYSOH by electronic alert.
- 3) You testified that you did not receive any alert by email indicating that there was a new notice on your NYSOH account requesting that you update the information in your account by November 15, 2016.
- 4) The October 10, 2016 renewal notice does not indicate that your child's CHP plan enrollment would be terminated if you failed to respond. The notice does state that your child's financial eligibility may end.

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- 5) You testified that you became aware that your child had been disenrolled from his CHP plan on or about December 10, 2016 when, in advance of his [REDACTED] doctor's appointment, you were told by your child's doctor's office that he was no longer covered under his CHP plan.
- 6) On December 10, 2016 NYSOH received your updated application and CHP plan selection for your child.
- 7) Your child was reenrolled in his CHP plan beginning January 1, 2017.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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

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children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility 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, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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).

Legal Analysis

The issue under review is whether NYSOH provided you proper and adequate notice that your child's eligibility for and enrollment in CHP terminated as of November 30, 2016.

Your child was originally found eligible for CHP and enrolled effective December 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's October 10, 2016 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your child qualified for financial help paying for his coverage. The notice asked that you update the

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information in your account by November 15, 2016 or the financial assistance your child was receiving may end.

No updates were made to your NYSOH account prior to November 15, 2016.

On November 23, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in his CHP plan would end effective November 30, 2016. According to the eligibility determination issued on November 17, 2016, this was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The October 10, 2016 renewal notice does not indicate that your child's CHP plan enrollment would be terminated if you failed to respond. You were first informed that your child's coverage through his CHP plan would end in the November 17, 2016 eligibility determination and November 23, 2016 disenrollment notices.

The record indicates that on December 10, 2016, you updated your NYSOH account and submitted an updated application for your child. You testified that you updated the account as soon as you received discovered that your child had been disenrolled from coverage.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's CHP eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until January 1, 2017.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child for the month of December 2016 and the December 23, 2016 disenrollment notice and December 17, 2016 eligibility determination notice are RESCINDED.

Decision

The December 17, 2016 eligibility determination notice is RESCINDED.

The December 23, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his CHP plan for the month of December 2016, and to notify you accordingly.

Effective Date of this Decision: March 14, 2017

How this Decision Affects Your Eligibility

Your child should not have been terminated from his CHP plan in December 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into his CHP for the month of December 2016. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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):

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Summary

The December 17, 2016 eligibility determination notice is RESCINDED.

The December 23, 2016 disenrollment notice is RESCINDED.

Your child should not have been terminated from his CHP plan in December 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into his CHP for the month of December 2016. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

