



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

Notice of Decision

Decision Date: March 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013979

[REDACTED]

Dear [REDACTED]

On March 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 7, 2016 eligibility determination and disenrollment 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 24, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013979

[REDACTED]

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 Child Health Plus terminated effective November 30, 2016?

Procedural History

On August 3, 2016, your child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On August 3, 2016, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in Child Health Plus with a \$30.00 per month premium effective September 1, 2016. The notice requested that you provide documentation confirming his citizenship status and Social Security number before October 31, 2016.

Also on August 3, 2016, NYSOH issued a notice confirming your child's enrollment in a Child Health Plus plan, effective September 1, 2016.

On November 7, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed his citizenship status and Social Security number within the required timeframe.

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Also on November 7, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in his Child Health Plus plan would end effective November 30, 2016 because he was no longer eligible to enroll in health insurance through NYSOH.

On November 23, 2016, your child's Social Security number was added to your NYSOH account.

On November 24, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective January 1, 2017.

Also on November 24, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan with a plan enrollment start date of January 1, 2017.

On December 13, 2016, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his Child Health Plus plan for the month of December 2016.

On March 20, 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 that you are only appealing your child's disenrollment from his Child Health Plus plan for the month of December 2016.
- 2) The record reflects that your child was born on [REDACTED]
- 3) The record indicates that your child was added to your NYSOH account on August 2, 2016. The application that was submitted that day indicates that he is a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.
- 4) You testified, and your NYSOH account confirms, that on August 2, 2016, you updated your NYSOH account with a broker. You further testified that the broker did not advise you that you would need to provide your child's Social Security number.
- 5) You testified, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.

- 6) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your child's eligibility was only conditional and that you needed to provide documentation of his citizenship status or his Social Security number.
- 7) During the hearing you reviewed your e-mail account, but could not locate any e-mail alert from NYSOH from August 2016.
- 8) You testified that you received his Social Security number in September 2016 or October 2016.
- 9) You testified that you have not missed any premium payments for your child's Child Health Plus plan, and paid the premium for the month of December 2016.
- 10) You testified that you did not know your child had been disenrolled from her Child Health Plus plan until [REDACTED] when you received a call from your child's Child Health Plus plan, advising you that your child would be disenrolled at the end of the month.
- 11) The record indicates that on November 23, 2016, your child's Social Security number was added to your NYSOH account.

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) (New York Public Health Law (PHL) § 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

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); see *generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. 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)).

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)(2); 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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting

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the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in Child Health Plus terminated effective November 30, 2016.

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

If NYSOH cannot verify an individual's citizenship status or Social Security number, 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.

The record indicates that your child was added to your NYSOH account on August 2, 2016. The application that was submitted that day indicates that he was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on August 3, 2016, you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his Social Security number and citizenship status before October 31, 2016.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which advised you that your eligibility was only conditional and that you needed to submit documentation to confirm your citizenship status. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your child's citizenship and Social Security number in order to confirm your child's eligibility for Child Health Plus.

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Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the November 7, 2016 eligibility determination and November 7, 2016 disenrollment notices, stating that your child is no longer eligible for Child Health Plus because you failed to submit documentation are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his Child Health Plus plan as of December 1, 2016.

Decision

The November 7, 2016 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus plan for the month of December 2016.

Effective Date of this Decision: March 24, 2017

How this Decision Affects Your Eligibility

Your child should not have been terminated from his Child Health Plus plan for December 2016 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan for the month of December 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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 Federal Marketplace. This must be done within 30 days of the

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Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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

Summary

The November 7, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

Your child should not have been terminated from his Child Health Plus plan for December 2016 for failure to submit proof of his citizenship status and Social Security number.

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Your case is RETURNED to NYSOH to reinstate your child into his Child Health Plus plan for the month of December 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

