



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014081

[REDACTED]

Dear [REDACTED],

On March 7, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 2016 eligibility determination notice and September 22, 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 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).

This page intentionally left blank.



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

Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014081



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's (NYSOH) August 2, 2016 eligibility determination notice and September 22, 2016 enrollment confirmation notice timely?

Did NYSOH properly determine that your youngest child's [REDACTED] eligibility for and enrollment in his Child Health Plus plan was effective September 1, 2016?

Procedural History

On August 1, 2016 your newborn child was added to your NYSOH account and an application was submitted on his behalf.

On August 2, 2016 NYSOH issued an eligibility determination, based on your August 1, 2016 application, stating that your youngest child was eligible to enroll in a Child Health Plus plan, effective September 1, 2016.

On September 22, 2016 NYSOH issued an enrollment confirmation notice stating that your youngest child was enrolled in a Child Health Plus plan, effective September 1, 2016.

On December 16, 2016 you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's enrollment in a Child Health Plus plan insofar as it did not begin in the month of his birth; July 2016.

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).

On March 7, 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 appealing only your youngest child's eligibility and enrollment start date.
- 2) You testified, and the record reflects, that your child was born on [REDACTED].
- 3) You testified that you did not have coverage through NYSOH at the time of your child's birth, rather, you had employer sponsored health insurance at that time.
- 4) Your household's NYSOH account was updated to include your youngest child on August 1, 2016.
- 5) Your youngest child was enrolled into a Child Health Plus plan on August 1, 2016.
- 6) You testified that you need your youngest child's Child Health Plus plan to begin in the month of his birth because of outstanding medical bills.
- 7) You testified that you did not appeal the start date of your youngest child's Child Health Plus plan prior to December 16, 2016 because you had filed a separate appeal with your employer sponsored coverage in September 2016 in hopes to resolve the issue outside of NYSOH.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (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

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).

cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)). However, the appeal request may be considered valid if the appellant sufficiently demonstrates that failure to timely submit was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(b)(2)(i)(D)).

Child Health Plus Effective Date - General

Child Health Plus is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

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 of 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 subsequent month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

On December 22, 2015 the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into Child Health Plus, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015).

However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. The effect of this amendment is that it repealed the January 1, 2016 start date and there will continue to be a gap between the date of birth and the beginning date of Child Health Plus coverage for newborns until January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

Legal Analysis

The first issue is whether your appeal of NYSOH's August 2, 2016 eligibility determination notice and September 22, 2016 enrollment confirmation notice was timely.

On December 16, 2016 you filed an appeal to dispute the start date of your youngest child's eligibility for and enrollment in Child Health Plus as stated in the August 2, 2016 eligibility determination and September 22, 2016 enrollment confirmation notices.

Individual applicants and enrollees must request a hearing 60 days from the date of their notice of eligibility determination by NYSOH. However, the appeal request may be considered valid if the appellant sufficiently demonstrates that failure to timely submit was due to exceptional circumstances and should not preclude the appeal.

You credibly testified that you did not appeal the start date of your youngest child's Child Health Plus plan prior to December 16, 2016 because you had filed a separate appeal with your employer sponsored coverage in September 2016 in hopes to resolve the issue outside of NYSOH. You then filed an appeal with NYSOH once your other appeal was completed.

Therefore, NYSOH Appeals Unit will consider your appeal timely since you were waiting for a decision from another appeals entity on your youngest child's coverage.

The second issue is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective September 1, 2016.

Your youngest child was born on [REDACTED], and on August 1, 2016 your youngest child was added to your NYSOH account. He was subsequently found eligible for enrollment in Child Health Plus, and a plan was selected on August 1, 2016, with an enrollment start date of September 1, 2016.

You testified that you did not have coverage through NYSOH at the time of your youngest child's birth, rather, you had employer sponsored health insurance at that time. You testified that you need your youngest child's Child Health Plus plan to begin in the month of his birth because of outstanding medical bills

As of the date of your application for financial assistance, in New York State the date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the

first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

Your application and Child Health Plus enrollment for your youngest child was received on August 1, 2016, so the effective date of that plan would be by the first day of the next following month, September 1, 2016.

Accordingly, the August 2, 2016 eligibility determination notice and the September 22, 2016 enrollment confirmation notice stating that your youngest child was eligible for and enrolled in Child Health Plus, effective September 1, 2016 are AFFIRMED.

Decision

The August 2, 2016 eligibility determination notice is AFFIRMED.

The September 22, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

Your youngest child is eligible for Child Health Plus effective September 1, 2016.

The effective date of your youngest child's Child Health Plus plan is September 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

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).

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

Summary

The August 2, 2016 eligibility determination notice is AFFIRMED.

Your youngest child is eligible for Child Health Plus effective September 1, 2016.

The September 22, 2016 enrollment confirmation notice is AFFIRMED.

The effective date of your youngest child's Child Health Plus plan is September 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

