



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

Notice of Decision

Decision Date: March 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014355

[REDACTED]

Dear [REDACTED],

On March 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2016 eligibility determination notice and December 20, 2016 enrollment 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]
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Issues

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

Did NY State of Health properly determine that your child's eligibility for and enrollment in her Child Health Plus plan was effective February 1, 2017?

Did NY State of Health properly determine that your and your spouse's eligibility for and enrollment in your Essential Plan was effective February 1, 2017?

Procedural History

On November 18, 2015, NY State of Health (NYSOH) received your household's application for financial assistance with health insurance.

On November 24, 2015, NYSOH issued a notice of eligibility determination, based on your November 18, 2015 application, stating that your child was eligible for Child Health Plus effective January 1, 2016, and that you and your spouse were eligible to enroll in the Essential Plan effective January 1, 2016.

On November 25, 2015, NYSOH issued a notice of enrollment confirming your child's enrollment in her Child Health Plus plan, effective January 1, 2016, and your and your spouse's enrollment in your Essential Plan, effective January 1, 2016.

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On November 17, 2016, NYSOH issued a notice that it was time to renew your, your spouse's, and your child's health insurance for 2017. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not you, your spouse, or your child qualified for financial help paying for coverage. The notice asked that you update the information in your account between November 16, 2016 and December 15, 2016 or the financial assistance you, your spouse, and your child were receiving may end.

No updates were made to your account between November 16, 2016 and December 15, 2016.

On December 19, 2016, NYSOH issued an eligibility determination notice stating that effective January 1, 2017, your child was no longer eligible for health insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

Also on December 19, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017. The notice stated that you were not eligible for financial assistance because you did not respond to the renewal notice.

Also on December 19, 2016, NYSOH issued a disenrollment notice stating that your child's coverage through her Child Health Plus plan would end December 31, 2016 because you did not renew her health insurance coverage, and your and your spouse's coverage through the Essential Plan would end December 31, 2016 as you were no longer eligible to enroll in the Essential Plan.

Finally, on December 19, 2016, NYSOH received your household's updated application for health insurance.

On December 20, 2016, NYSOH issued a notice of eligibility determination, based on your December 19, 2016 application, stating that your child was eligible to enroll in Child Health Plus, effective February 1, 2017, and that you and your spouse were eligible to enroll in the Essential Plan, effective February 1, 2017.

Also on December 20, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 19, 2016, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on February 1, 2017, and that you and your spouse were enrolled in an Essential Plan and that your and your spouse's coverage would start on February 1, 2017.

On December 27, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as she did not have coverage for the month of January 2017, as well as the start date of

your and your spouse's Essential Plan insofar as your and your spouse's enrollment did not begin January 1, 2017.

On March 13, 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.

On March 13, 2017, NYSOH produced a copy of the call log for all calls you placed to NYSOH from November 1, 2016 to December 31, 2016. This has been marked as Exhibit #1 and is hereby incorporated into the record.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are seeking an enrollment start date for your and your spouse's Essential Plan of January 1, 2017 and an enrollment start date for your child's Child Health Plus plan of January 1, 2017.
- 2) You testified that you receive notices from NYSOH by regular mail, but that you sometimes also receive electronic alerts advising you that a new notice has been uploaded to your NYSOH account.
- 3) Your NYSOH account reflects that you have elected to receive electronic alerts via email.
- 4) You testified that you are not sure if you received any alert by email indicating that there was a new notice on your NYSOH account in November 2016, and stated that you do not go on-line very often.
- 5) You testified that you contacted NYSOH at the beginning of November 2016 to find out about renewing your household's coverage for 2017. You further testified that after that phone call, you believed that your household's coverage for 2017 was renewed until you received a notice from your plan.
- 6) You testified that in late November or early December 2016 you received a notice from your insurance plan indicating that your coverage was ending.
- 7) You testified that you contacted your plan immediately after receiving the notice, at which point you were advised that you would need to contact NYSOH.

- 8) You further testified that you called NYSOH as soon as your health plan had advised you to contact NYSOH.
- 9) The record reflects that on November 19, 2016, NYSOH received your household's updated application for health insurance.
- 10) You and your spouse were determined eligible for the Essential Plan on December 19, 2016, with an effective date of February 1, 2017, and your child was determined eligible for Child Health Plus that same day with an effective date of February 1, 2017.
- 11) You reenrolled your child into a Child Health Plus plan and yourself and your spouse into an Essential Plan on November 19, 2016.
- 12) During the hearing you advised the hearing officer that you made several calls to NYSOH during November 2016 and December 2016, and you gave permission for the hearing officer to listen to those recordings.
- 13) NYSOH provided a call log for all calls that took place between November 1, 2016 and December 31, 2016. This call log has been marked as Exhibit #1. The call log documents a phone call placed on December 14, 2016 with a note indicating the type of call was for application processing and renewal. NYSOH was unable to produce a recording of this December 14, 2016 phone call.
- 14) The record reflects that on November 8, 2016 you placed a phone call to NYSOH. A review of the recording of this call reveals that on November 8, 2016 you called NYSOH to update your account, but were advised that it was too soon to process your renewal. You were advised that the system indicated that your household's renewal would be run, but that you should call NYSOH before December 15, 2016 to confirm your household's eligibility. During that phone call you indicated that you would call back to follow-up with NYSOH regarding your household's health insurance renewal.

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

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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 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

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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).

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility as long as enrollees are under age 65, not enrolled in minimum essential coverage elsewhere, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (42 CFR § 600.340(e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (42 CFR § 600.345; NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last

day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

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 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 first issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in her Child Health Plus plan was effective February 1, 2017.

The record reflects that on November 8, 2016 you contacted NYSOH to renew your household's coverage. At that time, you were advised that it was too soon to process a renewal for coverage. You were informed that the system indicated that your household's renewal would be run, and that you should follow-up with NYSOH between November 16, 2016 and December 15, 2016.

You testified that in late November 2016 or early December 2016 you received a notice from your plan indicating that your coverage was ending, which prompted you to immediately contact your plan, which directed you to contact NYSOH.

The call log produced by NYSOH indicates that on December 14, 2016, you placed a call to NYSOH. The call type is indicated as application processing and renewal. NYSOH was unable to produce the recording of this phone call.

Therefore, we must assume that on December 14, 2016, you contacted NYSOH for the purpose of following-up on your household's renewal for coverage for 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

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Your renewal of your household's eligibility for financial assistance through NYSOH for the upcoming coverage year was processed on December 19, 2016, therefore, we must assume that the information you provided at that time is the information that would have been used had your household's application been processed at the time of your December 14, 2016 phone call.

Had the information been submitted at that time, your child's eligibility for and enrollment in her Child Health Plus plan would have begun on January 1, 2017.

The second issue under review is whether NYSOH properly determined that you and your spouse's eligibility for and enrollment in your Essential Plan was effective February 1, 2017.

An Essential Plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Had your household's application been processed at the time of the December 14, 2016 phone call, you and your spouse's eligibility for and enrollment in the Essential Plan would have begun on January 1, 2017.

Therefore, the December 20, 2016 notice of eligibility and December 20, 2016 notice of enrollment are MODIFIED to state that your child's eligibility for and enrollment her Child Health Plus plan was effective January 1, 2017, and you and your spouse's eligibility for and enrollment in the Essential Plan was effective January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan as of January 1, 2017 and to enroll you and your spouse in your Essential Plan as of January 1, 2017.

Decision

The December 20, 2016 notice of eligibility is MODIFIED to state that your child's eligibility for her Child Health Plus plan was effective January 1, 2017, and you and your spouse's eligibility for the Essential Plan was effective January 1, 2017.

The December 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective January 1, 2017, and you and your spouse's enrollment in the Essential Plan was effective January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan effective January 1, 2017, and to enroll you and your spouse into your Essential Plan effective January 1, 2017.

Effective Date of this Decision: March 21, 2017

How this Decision Affects Your Eligibility

Your child is eligible for Child Health Plus as of January 1, 2017.

You and your spouse are eligible for the Essential Plan as of January 1, 2017.

Your case is being sent back to NYSOH to enroll your child in her Child Health Plus plan as of January 1, 2017, and to enroll you and your spouse in your Essential Plan as of January 1, 2017.

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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You can contact us in any of the following ways:

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Summary

The December 20, 2016 notice of eligibility is MODIFIED to state that your child's eligibility for her Child Health Plus plan was effective January 1, 2017, and your and your spouse's eligibility for the Essential Plan was effective January 1, 2017.

Your child is eligible for Child Health Plus as of January 1, 2017.

You and your spouse are eligible for the Essential Plan as of January 1, 2017.

The December 20, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan was effective January 1, 2017, and your and your spouse's enrollment in the Essential Plan was effective January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan effective January 1, 2017, and to enroll you and your spouse into your Essential Plan effective January 1, 2017.

Your case is being sent back to NYSOH to enroll your child in her Child Health Plus plan as of January 1, 2017, and to enroll you and your spouse in your Essential Plan as of January 1, 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

