



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

Notice of Decision

Decision Date: February 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023990

[REDACTED]

[REDACTED]

On February 1, 2018, you and your authorized representative appeared by telephone at a hearing on your appeal of NY State of Health's November 1, 2017 notices of eligibility and enrollment.

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 § 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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Decision

Decision Date: February 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023990



Issue

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

Did NY State of Health (NYSOH) properly determine that your child's enrollment in her Child Health Plus plan was effective December 1, 2017?

Procedural History

On January 13, 2017, NYSOH issued a notice of eligibility redetermination, based on your January 12, 2017 application, stating that your child was eligible for Medicaid. This eligibility determination was effective October 1, 2016.

Also on January 13, 2017, NYSOH issued a notice confirming your child's enrollment in a Medicaid Managed Care plan, effective October 1, 2016.

On September 3, 2017, NYSOH issued a renewal notice stating that it was time to renew your child's health insurance. The 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 for paying for her health coverage, and that you needed to update your account by October 15, 2017 or your child would be in danger of losing her coverage and financial assistance.

No updates were made to your account by October 15, 2017.

On October 17, 2017, NYSOH issued a notice of eligibility redetermination stating that your child did not qualify for Medicaid through NYSOH, Child Health

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Plus or the Essential Plan, to receive tax credits or cost-sharing reductions, or to purchase a qualified health plan. This was because you had not responded to the renewal notice and had not completed the renewal within the required timeframe. Your child's eligibility ended effective November 1, 2017.

On October 18, 2017, NYSOH issued a notice of disenrollment stating that your child's coverage with her Medicaid Managed Care plan was ending effective October 31, 2017.

On October 31, 2017, NYSOH received your child's updated application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your child was eligible for a Child Health Plus plan.

On November 1, 2017, NYSOH issued a notice of eligibility redetermination, based on your October 31, 2017 application, stating that your child was eligible to enroll in a Child Health Plus plan, with a \$9.00 monthly premium, effective December 1, 2017.

Also on November 1, 2017, NYSOH issued a notice of enrollment, based on your plan selection on October 31, 2017, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on December 1, 2017.

On November 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin November 1, 2017.

On February 1, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. 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) Your Authorized Representative testified, and the record reflects, that you receive alerts regarding notices from NYSOH by electronic mail.
- 2) Your Authorized Representative testified that you did not receive any electronic alerts regarding a September 3, 2017 renewal notice in your NYSOH account telling you that you needed to update your account or your child would be in danger of losing her coverage and financial assistance.

- 3) Your Authorized Representative testified that you became aware that your child was disenrolled sometime between the end of October and middle of November 2017.
- 4) On October 31, 2017, NYSOH received your child's updated application for health insurance.
- 5) Your Authorized Representative testified that you enrolled your child into a Child Health Plus plan on October 31, 2017.
- 6) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "Electronic Notice Requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulations and guidance on the use of electronic notices. The memorandum asserts that "[t]he electronic notification rules do not require that Exchanges track and monitor consumers actual receipt of electronic notices".
- 7) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the September 3, 2017 renewal notice.
- 8) Your Authorized Representative testified that you are seeking that your child be enrolled in her Child Health Plus plan as of November 1, 2017, due to medical bills for treatment at [REDACTED] that occurred in November.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's circumstances that may affect eligibility" (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" (42 CFR § 435.916(a)(2)).

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 (45 CFR § 155.335(c), (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 (45 CFR §155.335(h)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

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 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).

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR § 155.230(d); 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 enrollment in her Child Health Plus plan was effective December 1, 2017.

Your child was originally found eligible for Medicaid effective October 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 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 September 3, 2017 renewal notice stated that it could not make a decision on whether your child would qualify for financial assistance for health insurance, and that you needed to update your account by October 15, 2017 to prevent loss of her coverage or financial assistance. The record further reflects that you did not update your account until October 31, 2017.

Because your response to the notice was not timely, your child was disenrolled from her Medicaid Managed Care plan effective October 31, 2017.

However, your Authorized Representative testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Your Authorized Representative credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update your account by October 15, 2017 or your child would be in danger of losing her coverage and financial assistance. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the record that NYSOH sent you an electronic alert notifying you of a new notice available in your account on September 3, 2017. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to renew your child's application, or that any such notice was sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and your Authorized Representative testified that you did not receive one, it is concluded that NYSOH did not give you the proper notice so that you could update your account in order for your child's eligibility for financial assistance to be determined and to prevent a gap in her health insurance coverage.

You first updated your child's eligibility and selected your child's Child Health Plus plan through NYSOH on October 31, 2017, and therefore we must assume that this information would have provided and selection would have been made had you been timely informed of the need to update your account, as stated in the renewal notice.

Therefore, the November 1, 2017 eligibility determination notice is MODIFIED to state that your child's eligibility for Child Health Plus was effective as of November 1, 2017, and the November 1, 2017 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective November 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan effective November 1, 2017. You will be responsible for remitting the premium for November 2017 coverage to the insurance carrier.

Decision

The November 1, 2017 eligibility determination notice is MODIFIED to state that your child's eligibility for Child Health Plus was effective as of November 1, 2017

The November 1, 2017 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective November 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan effective November 1, 2017. You will be responsible for remitting the premium for November 2017 coverage to the insurance carrier.

Effective Date of this Decision: February 16, 2018

How this Decision Affects Your Eligibility

Your child's eligibility for enrollment in her Child Health Plus plan is effective as of November 1, 2017.

Your case is being sent back to NYSOH to update her enrollment accordingly.

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

Summary

The November 1, 2017 eligibility determination notice is MODIFIED to state that your child's eligibility for Child Health Plus was effective as of November 1, 2017.

The November 1, 2017 enrollment notice is MODIFIED to state that your child's enrollment in her Child Health Plus plan is effective as of November 1, 2017.

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Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan effective November 1, 2017. You will be responsible for remitting the premium for November 2017 coverage to the insurance carrier.

Your child's enrollment in her Child Health Plus plan is effective as of November 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:

