



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

Notice of Decision

Decision Date: April 21, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013173

[REDACTED]

Dear [REDACTED],

On February 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2016 eligibility redetermination 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).

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DEPARTMENT OF HEALTH
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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013173



Issues

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

Did NY State of Health (NYSOH) properly determine that your child was disenrolled from Medicaid effective October 31, 2016?

Did NYSOH properly determine that your child's enrollment in his Child Health Plus (CHP) plan was effective December 1, 2016?

Procedural History

On December 4, 2015, NYSOH issued an eligibility redetermination notice stating in relevant part, that your child remained eligible for Medicaid. This eligibility remained effective as of January 1, 2016.

On December 11, 2015, NYSOH issued an enrollment notice confirming your December 9, 2015 plan selection stating your child was enrollment in a MMC plan. The notice also stated that your child's insurance coverage with their MMC plan began January 1, 2016.

On October 15, 2016, NYSOH received your updated application for health insurance for your family, in which you reported an increase in income.

On October 16, 2016 and October 17, 2016, NYSOH issued eligibility redetermination notices based on your October 15, 2016 updated application for health insurance for your family. Those notices stated, in relevant part, that

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effective October 1, 2016, your child was no longer eligible for Medicaid. However, your child's Medicaid coverage would continue until December 31, 2016. This was because certain individuals who qualified for Medicaid get coverage for 12 continuous months from the date they were last determined eligible.

On October 17, 2016, NYSOH received your updated application that stated your family did not need health insurance.

On October 18, 2016, NYSOH received your updated application stating your family did need health insurance.

Also on October 18, 2016, NYSOH issued a disenrollment notice based on the October 17, 2016 application stating, in relevant part, that your child's insurance coverage with his MMC plan would end effective October 31, 2016. The reason stated was because your child was no longer eligible to enroll in health insurance through NYSOH.

On October 20, 2016, NYSOH issued a notice that it was time to renew your family's health insurance for 2017. That notice stated that, based on information from federal and state sources, NYSOH could not decide whether your family members, including your child, would qualify for financial help paying for your health coverage, and that you needed to update your account by December 15, 2016 or your family might lose the financial assistance you were currently receiving.

On October 25, 2016 NYSOH issued an eligibility determination notice, based on that October 17, 2016 update, stating that your family 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. You also could not enroll in a qualified health plan at full cost. This was because you indicated you no longer wanted to receive health insurance coverage for your family through NYSOH.

On October 28, 2016, NYSOH issued a notice that the documentation you submitted did not confirm the information in your application. You were instructed to submit more proof to verify the household income by November 17, 2016.

On November 9, 2016, NYSOH received your updated application for health insurance for your family. That day, a preliminary eligibility redetermination was prepared based on your last application, finding in part that your child was eligible for CHP for a limited time with a \$9.00 monthly premium, effective December 1, 2016.

Also on November 9, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility redetermination as it related to you and your spouse being found ineligible for a special enrollment period outside of the 2016 open enrollment period, and your child being disenrolled from Medicaid effective October 31, 2016 and next enrolled in a CHP plan on December 1, 2016, resulting in a one month gap in coverage.

On November 10, 2016, NYSOH issued an eligibility redetermination notice that in part stated your child was eligible for CHP for a limited time at a \$9.00 monthly premium, effective December 1, 2016.

Also on November 10, 2016, NYSOH issued an enrollment notice confirming your November 9, 2016 CHP plan selection for your child with a \$9.00 monthly premium and a plan enrollment start date of December 1, 2016.

On February 16, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your spouse testified as your authorized representative. On the record, your spouse withdrew that portion of the appeal as it concerns your and his eligibility for health coverage for the period of November 1, 2016 to December 31, 2016. The only issue he requested be decided on this appeal related to the gap in your child's health coverage during the month of November 2016. 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 spouse testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.
- 2) You are seeking insurance for your child, who was [REDACTED] as of [REDACTED].
- 3) According to your NYSOH account, your child was originally found eligible for Medicaid on October 28, 2015 and his MMC plan began on December 1, 2015.
- 4) According to your NYSOH account, your child was redetermined eligible for Medicaid on December 4, 2015, effective January 1, 2016 and continued in his MMC plan effective January 1, 2016.
- 5) According to your NYSOH account, on October 15, 2016, you updated your family's application for health insurance. Based on this update, on

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October 16, 2016 and October 17, 2016, NYSOH issued eligibility redetermination notices stating in part that your child was determined no longer eligible for Medicaid, however his Medicaid coverage would continue until December 31, 2016 because he was eligible for 12 continuous months of Medicaid coverage.

- 6) Your spouse credibly testified that on October 17, 2016, he updated your family's NYSOH account and mistakenly hit the selection button indicating that your family did not need health insurance.
- 7) According to your NYSOH account and your spouse's testimony, he again updated your family's application on October 18, 2016 and selected the button indicating that your family was applying for health insurance.
- 8) According to your NYSOH account, as a result of your October 17, 2016 updated application indicating that your family did not need health insurance, you, your spouse and your child were disenrolled from your respective health plans. Your child's MMC plan coverage ended effective October 31, 2016.
- 9) Your spouse testified that your child had emergency medical services on November 8, 2016 and that is when you found out that your child had lost his health coverage effective October 31, 2016.
- 10) Your spouse testified that he had multiple phone calls with representative of NYSOH in an attempt to figure out why your family was disenrolled from health coverage on October 31, 2016 without success.
- 11) According to your NYSOH account, you updated your applications on November 9, 2016 and your child was found eligible for CHP effective December 1, 2016.
- 12) According to the November 9, 2016 application, your attested annual household income was \$42,822.96.
- 13) According to your NYSOH account and your spouse's testimony, you selected a CHP plan on November 9, 2016 with a plan enrollment start date of December 1, 2016.
- 14) Your spouse testified that your child has a gap of insurance coverage for the month of November 2016.
- 15) Your spouse testified that he is not concerned with the gap of insurance coverage for you and him for the months of November 2016 and December 2016 and withdrew that portion of the appeal.

16) Your spouse testified that you need insurance coverage for the month of November 2016 for your child because of the unpaid medical bills incurred due to the emergency medical treatment the child required on [REDACTED].

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

Applicable Law and Regulations

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)). This 12-month period is referred to as "continuous coverage" and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income below 400% of the federal poverty level (FPL) for the applicable household size (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (PHL Law § 2511(2)(b)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your November 9, 2016 application, that was

the 2016 FPL, which was \$20,160.00 for a three-person household (80 Federal Register 3236, 3237).

"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)).

Legal Analysis

The first issue under review is whether your child was properly disenrolled from Medicaid, effective October 31, 2016.

On December 11, 2015, NYSOH issued an enrollment notice confirming your December 9, 2015 plan selection stating your child was enrollment in a MMC plan. The notice also stated that your child's insurance coverage with their MMC plan began January 1, 2016.

On October 15, 2016, you updated your family's application for health insurance. Based on this update, on October 16, 2016 and October 17, 2016, NYSOH issued eligibility redetermination notices stating in part that your child was determined no longer eligible for Medicaid, however his Medicaid coverage would continue until December 31, 2016 because he was eligible for 12 continuous months of Medicaid coverage. This redetermination comported the law regarding an individual's entitlement to 12-months of continuous coverage in Medicaid.

On October 17, 2016, you updated your family's account and according to your credible testimony, you mistakenly indicated that your family did not need health insurance. As a result of this mistake, NYSOH systematically disenrolled you and your spouse from your health plans and your child was disenrolled from his MMC plan, effective October 31, 2016.

According to your NYSOH account and your credible testimony, you reported an increase in income, but neither this event nor any other events occurred that would have been a basis for your child's Medicaid coverage to have been terminated, such as a permanent move or incarceration. "But for" your mistake on the October 17, 2016 application, your child should have remained eligible for Medicaid for 12 continuous months from their last eligibility determination or from January 1, 2016 until December 31, 2016.

Therefore, the October 16, 2016 and October 17, 2016 eligibility redetermination notices that state your child is no longer eligible for Medicaid, however, his Medicaid coverage would continue until December 31, 2016 are **AFFIRMED**.

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).

The October 18, 2016 disenrollment notice is MODIFIED to state that your child's enrollment in his MMC plan is terminated effective December 31, 2016 so as to provide him Medicaid coverage until the end of his 12-month continuous coverage period.

Your case is RETURNED to NYSOH to reinstate your child into his MMC plan for November 2016 and December 2016.

The second issue is whether NYSOH properly determined that your child's enrollment in his CHP plan was effective December 1, 2016.

According to your NYSOH account, you expect to file your 2016 federal income tax return with a status of married filing jointly and you will claim one dependent. Therefore, your youngest son is in a three-person household.

On your November 9, 2016 application, you attested to an expected household income of \$42,822.96.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). On the date of your November 9, 2016 application, the relevant FPL was \$20,160.00 for a three-person household. Since the submitted household income on that application of \$42,822.96 is 212.42% of the 2016 FPL, your child would have an income below 400% of the FPL based on the information in your November 9, 2016 application.

The date on which a CHP plan can take effect generally 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.

However, to be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (PHL Law § 2511(2)(b)). Since your child remained eligible for Medicaid under 12-month continuous coverage policy through December 31, 2016, he would not be eligible for CHP until January 1, 2017.

Therefore, that portion of the November 10, 2016 eligibility redetermination notice finding that your child was eligible for a limited time for CHP at \$9.00 per month premium, effective December 1, 2016, is MODIFIED to state that, your child is eligible to enroll in a CHP plan, effective January 1, 2017. Likewise, the November 10, 2016 enrollment confirmation notice as it relates to your child is MODIFIED to state that his enrollment in his CHP plan at \$9.00 per month premium is effective January 1, 2017.

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Decision

The October 16, 2016 and October 17, 2016 eligibility redetermination notices that state your child is no longer eligible for Medicaid, however, his Medicaid coverage would continue until December 31, 2016 are **AFFIRMED**.

The October 18, 2016 disenrollment notice is **MODIFIED** to state that your child's enrollment in his MMC plan is terminated effective December 31, 2016 so as to provide him Medicaid coverage until the end of his 12-month continuous coverage period.

The November 10, 2016, eligibility redetermination notice is **MODIFIED** to state that your child is eligible to enroll in a CHP plan, effective January 1, 2017.

The November 10, 2016 enrollment confirmation notice is **MODIFIED** to state that your child's enrollment in his CHP plan at \$9.00 per month premium is effective January 1, 2017.

Your case is **RETURNED** to the NYSOH to reinstate your child in his MMC plan as of November 1, 2016 through December 31, 2016 for the completion of 12-months of continuous coverage and to change the start date of your child's CHP plan to January 1, 2016.

NYSOH Plan Management will assist you in the return of any premiums that may be due to these changes.

Effective Date of this Decision: April 21, 2017

How this Decision Affects Your Eligibility

Your child's enrollment in his MMC plan should have been effective from January 1, 2016 to December 31, 2016.

Your child's CHP plan is being made effective January 1, 2017.

Your case is being sent back to the NYSOH to reinstate your child in his MMC plan for the months of November 2016 and December 2016 and change the start date of his CHP plan to January 1, 2017. NYSOH will notify you of these changes.

NYSOH Plan Management will assist you in the return of any premiums that are due.

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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 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

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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The October 16, 2016 and October 17, 2016 eligibility redetermination notices that state your child is no longer eligible for Medicaid, however, his Medicaid coverage would continue until December 31, 2016 are AFFIRMED.

The October 18, 2016 disenrollment notice is MODIFIED to state that your child's enrollment in his MMC plan is terminated effective December 31, 2016 so as to provide him Medicaid coverage until the end of his 12-month continuous coverage period.

The November 10, 2016, eligibility redetermination notice is MODIFIED to state that your child is eligible to enroll in a CHP plan, effective January 1, 2017.

The November 10, 2016 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan at \$9.00 per month premium is effective January 1, 2017.

Your case is RETURNED to the NYSOH to reinstate your child in his MMC plan as of November 1, 2016 through December 31, 2016 for the completion of 12-months of continuous coverage and to change the start date of your child's CHP plan to January 1, 2016.

NYSOH Plan Management will assist you in the return of any premiums that may be due to these changes.

Your child's enrollment in his MMC plan should have been effective from January 1, 2016 to December 31, 2016.

Your child's CHP plan is being made effective January 1, 2017.

Your case is being sent back to the NYSOH to reinstate your child in his MMC plan for the months of November 2016 and December 2016 and change the start date of his CHP plan to January 1, 2017. NYSOH will notify you of these changes.

NYSOH Plan Management will assist you in the return of any premiums that are due.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

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A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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