



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

Notice of Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013824

[REDACTED]

Dear [REDACTED],

On May 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 3, 2016 disenrollment notice, and November 29, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 7, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000013824

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine your child was no longer eligible for Child Health Plus effective November 30, 2016?

Did NY State of Health properly determine your child's Child Health Plus plan was effective January 1, 2017?

Procedural History

On December 9, 2015, NYSOH issued a notice of eligibility determination, based on your December 8, 2015 application, stating that your child was eligible for Child Health Plus effective January 1, 2016. Your child was subsequently enrolled in a Child Health Plus plan.

On October 19, and 27, 2016, NYSOH issued a notice that it was time to renew your child's health insurance for 2017. That notice stated that NYSOH could not enroll him in his current health plan for the next coverage year. You would need to choose a new health plan between November 16, 2016 and December 15, 2016 to continue his coverage. The notice further stated your child now qualified for coverage under Medicaid effective January 1, 2017, this was because federal and state data sources show his income was between \$0.00 and \$31,047.00.

On November 2, 2016, a notice was issued stating your child's application on November 1, 2016 was reviewed, and the income information in your application

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does not match what NYSOH received from state and federal data sources. You were asked to provide proof of income by November 16, 2016.

On November 3, 2016, a disenrollment notice was issued terminating your child's Child Health Plus plan effective November 30, 2016.

On November 5, 2016, a notice was issued based on your child's updated application on November 4, 2016, the notice stated the income information in his application does not match what NYSOH received from state and federal data sources. You were asked to provide proof of income by November 16, 2016.

On November 19, 2016, NYSOH issued an eligibility determination notice based on a November 18, 2016 application stating your child was eligible for Child Health Plus for a limited time effective January 1, 2017. The determination was based on the condition that you provide proof of your income by January 17, 2017.

On November 28, 2016, you enrolled your child into a Child Health Plus plan for a January 1, 2017 start date.

On November 29, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Child Health Plus plan starting January 1, 2017.

On December 6, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as he did not have coverage for the month of December, 2016.

On May 24, 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) Your child was eligible for and enrolled in Child Health Plus effective January 1, 2016.
- 3) The October 19, and 27, 2016, renewal notices indicated your child now qualified for coverage under Medicaid effective January 1, 2017, this was because federal and state data sources show his income was between \$0.00 and \$31,047.00.

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- 4) Your application submitted on November 3 and 4, 2016 listed an expected annual household income of \$14,420.66.
- 5) You testified you filed all your applications with the aid of an application counselor from Excellus BlueCross BlueShield.
- 6) At the time of your applications, your child was [REDACTED].
- 7) Your applications submitted on November 3, 4, and 18, 2016 stated you would be filing your 2016 taxes as Head of Household and claiming your child as a dependent.
- 8) Your application submitted on November 3, and 4, 2016 indicated your year preference was for 2016.
- 9) Your application submitted on November 18, 2016 listed an expected annual household income of \$26,817.46.
- 10) The record supports your initial applications on November 3, and 4, 2016 did not list short term disability payments you were receiving in the amount of \$12,396.80.
- 11) On November 11, 2016, you uploaded copies of your short-term disability payments.
- 12) You testified that your application counselor told you “they did not get their paperwork in on time and they lapsed him.”
- 13) You testified you incurred a medical bill for your child in the amount of approximately \$200.00 for the month of December, 2016.
- 14) On November 28, 2016, NYSOH received your Child Health Plus plan selection.

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)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP 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) (NY 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 (NY PHL § 2511(2)(b)).

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

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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 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).

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 State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

In an analysis of Medicaid 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 application, that was the 2016 FPL, which was \$16,020.00 for a two-person household (81 Federal Register 4036).

Legal Analysis

The issue under review is whether NYSOH properly determined your child was no longer eligible for Child Health Plus effective November 30, 2016.

Your child was originally found eligible for Child Health Plus and enrolled effective January 1, 2016.

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Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 issued renewal notices on October 19, and 27, 2016, stating your child now qualified for coverage under Medicaid effective January 1, 2017, this was because federal and state data sources show his income was between \$0.00 and \$31,047.00. You were asked to make a new selection for his health plan so that his enrollment could start January 1, 2017.

You then submitted applications on November 3 and 4, 2016, which listed an expected annual household income of \$14,420.66 for a two-person household, yourself, and your dependent child. Both applications submitted were for the eligibility year of 2016.

Based on these applications, a disenrollment notice was issued terminating your child's Child Health Plus plan effective November 30, 2016.

Since your child was initially found eligible for and enrolled in Child Health Plus effective January 1, 2016, the period of eligibility was to continue for twelve months until December 31, 2016 unless a triggering events occurred which make your child no longer eligible.

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 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.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the Federal Poverty Level (FPL) for the applicable family size. Since the amount of income listed on your November 3, and 4, 2016 applications of \$14,420.66 is 90.01% of the 2016 FPL for a two-person household, NYSOH found your child pending eligible for Medicaid, and he was disenrolled from his Child Health Plus plan.

Since NYSOH properly determined based on the information provided in the November, 3, and 4, 2016 applications your child may have been Medicaid eligible, the November 3, 2016 disenrollment notice was proper and is **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 second issue under review is whether NYSOH properly determined your child's Child Health Plus plan was effective January 1, 2017.

Your child was determined conditionally eligible for Child Health Plus effective January 1, 2017, based on your November 18, 2016, application.

You then enrolled your child into a Child Health Plus plan on November 28, 2016.

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 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.

Since you enrolled on November 28, 2016, his plan would start the first day of the second month following November, which is January 1, 2017.

Therefore, the November 29, 2016 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective January 1, 2017, is correct and must be AFFIRMED.

Decision

The November 3, 2016 disenrollment notice terminating your child's Child Health Plus plan effective November 30, 2016 was proper and is AFFIRMED.

The November 29, 2016 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective January 1, 2017, is AFFIRMED.

Effective Date of this Decision: June 7, 2017

How this Decision Affects Your Eligibility

Your child's eligibility for Child Health Plus ended November 30, 2016.

Your child's enrollment in a Child Health Plus plan was effective January 1, 2017.

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.

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).

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

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Summary

The November 3, 2016 disenrollment notice terminating your child's Child Health Plus plan effective November 30, 2016 was proper and is AFFIRMED.

Your child's eligibility for Child Health Plus ended November 30, 2016.

The November 29, 2016 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective January 1, 2017, is AFFIRMED.

Your child's enrollment in a Child Health Plus plan was effective 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:



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。我们可以为您免费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)

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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।

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&tumi 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.

אַײַדיש (Yiddish)

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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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