



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

Notice of Decision

Decision Date: March 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014212

[REDACTED]

Dear [REDACTED]

On March 20, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2016 eligibility determination and enrollment confirmation notices.

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: March 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014212

[REDACTED]

Issue

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

Did the NY State of Health properly determine that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2017?

Procedural History

On October 16, 2015 NY State of Health (NYSOH) issued a notice of eligibility determination stating that your youngest child was eligible for Medicaid effective October 1, 2015.

On October 17, 2015 NYSOH issued a notice of enrollment confirming your youngest child's enrollment in his Medicaid Managed Care plan with a plan enrollment start date of December 1, 2015.

On October 10, 2016 NYSOH issued a renewal notice, stating that it was time to renew your youngest child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your youngest child would qualify for financial help paying for his health coverage, and that you needed to update your account between October 16, 2016 and November 15, 2016 or he might lose the financial assistance he was currently receiving.

On October 11, 2016 NYSOH issued a notice of eligibility determination stating that your youngest child was no longer eligible for Medicaid, however, his

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Medicaid coverage would continue until November 30, 2016, effective October 1, 2016.

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

On November 17, 2016 NYSOH issued an eligibility determination notice stating that your youngest child 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. Your youngest child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed his renewal within the required time frame. Your youngest child's eligibility ended effective December 1, 2015.

On December 15, 2016 NYSOH received your youngest child's updated application for health insurance.

On December 16, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible for Child Health Plus, effective January 1, 2017.

On December 16, 2016 an enrollment confirmation notice was issued that stated that you had selected a Child Health Plus plan for your youngest child, and that the effective date of that plan was January 1, 2017.

On December 20, 2016 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 December 1, 2016.

On March 20, 2016, 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 support the following findings of fact:

- 1) You testified, that you previously received all of your notices from NYSOH via electronic mail. You went on to testify that you changed your preference of receiving electronic alerts to receiving notices via regular mail when you contacted NYSOH regarding your youngest child's termination from his coverage.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to

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update your application in order to renew your youngest child's eligibility. You also did not receive any renewal notice by regular mail.

- 3) You testified that you also did not receive any electronic alerts regarding the October 12, 2016 eligibility determination notice stating that your youngest child was no longer eligible for Medicaid, but that his Medicaid coverage would continue until November 30, 2016.
- 4) The record reflects that on October 11, 2016 you updated your NYSOH account, specifically the additional information section with regard to both your children as well as your household income. You testified that this was not in response to the October 10, 2016 renewal notice.
- 5) The record reflects that on August 9, 2016 you also updated the income information in your application.
- 6) You testified that you did not know that you needed to update your account between October 16, 2016 and November 15, 2016 until you went to pick up a prescription for your youngest child in December 2016 and were advised at the pharmacy that your youngest child's coverage had lapsed.
- 7) You testified, and the record reflects, that on December 15, 2016 NYSOH received your youngest child's updated application for health insurance, and you enrolled your youngest child into a Child Health Plus plan that day.
- 8) The appeal summary includes a note from complaint [REDACTED] created on December 20, 2016 which reads "On 10/11/2016, the appellant, [name omitted], was sent a renewal notice indicating the need to renew between 10/16/2016 and 11/15/2016. On 10/11/2016, upon receipt of this notice via e-mail, the appellant accessed his account online via the website and updated his account information. Following this update the appellant's [youngest] child, [name omitted], 's eligibility was changed to no longer eligible for MA [Medicaid] but eligible to continue through the coverage period, scheduled to end 11/30/2016. Due to failure to renew during the renewal period of 10/16/2016 and 11/15/2016, the appellant's child was dis-enrolled from MA MMC [Medicaid Managed Care] coverage effective 11/30/2016. On 12/15/2016, the appellant contacted the Marketplace [NYSOH], completed the renewal, and enrolled his child in a CHP [Child Health Plus] plan effective 01/01/2017. The appellant, [name omitted], is disputing the 1/1/2017 effective date of coverage; requesting coverage be made effective 12/1/2016."

- 9) During the hearing you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 10) The record reflects that between September 1, 2016 and December 31, 2016 you had three phone calls with NYSOH; on December 15, 2016, December 16, 2016, and December 20, 2016.
- 11) A review of the recording of the December 15, 2016 phone call reveals that during that call you repeatedly advised the NYSOH representative that you did not receive the October 10, 2016 renewal notice. You repeatedly indicated that you were not receiving notices via regular mail from NYSOH. The NYSOH representative reviewed your account and advised you that you had selected the paperless option. You advised the representative that you do sometimes get e-mail alerts advising you that a notice has been uploaded to your NYSOH account, however, you did not receive such an e-mail alert directing you to the October 10, 2016 renewal notice, and it was not until this phone call that you learned of the existence of the October 10, 2016 renewal notice.
- 12) A review of the recording of the December 16, 2016 phone call reveals that during that phone call you again repeatedly advised the NYSOH representative that you did not receive an e-mail alert directing you to the renewal notice. During that phone call, you requested that the representative change the preference of how you receive notices from NYSOH from paperless to receiving notices by regular mail.
- 13) A review of the recording of the December 20, 2016 phone call reveals that you again repeatedly advised the NYSOH representative that you had not received any e-mail alert directing you to the October 10, 2016 renewal notice. You also advised the NYSOH representative that the update to your account on October 11, 2016 was not in response to the renewal notice, because you did not know the renewal notice existed. You also advised the NYSOH representative that you do not check your NYSOH inbox for notices unless you receive an e-mail alert directing you to your inbox.
- 14) A review of the recordings reveals that at no time during the phone calls with NYSOH on December 15, 2016, December 16, 2016, or December 20, 2016 did you advise NYSOH that you had received the October 10, 2016 renewal notice or that you had received an e-mail alert advising you that a new notice had been uploaded to your NYSOH account on or around October 10, 2016.
- 15) You also testified that when you had selected the paperless option through NYSOH, you would only check the inbox on your NYSOH

account for notices when you receive an e-mail alert. You testified that you were not in the habit of checking your NYSOH inbox unless you received an e-mail alert.

- 16) You testified that you need your youngest child's Child Health Plus plan to begin on December 1, 2016 because your youngest child has outstanding medical bills for December 2016.

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)).

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 (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)).

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

Legal Analysis

The issue is whether NYSOH properly determined that your youngest child’s enrollment in their Child Health Plus plan was effective January 1, 2017.

Your youngest child was originally found eligible for Medicaid effective October 1, 2015.

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 October 10, 2016 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue his financial assistance for health insurance, and that you needed to supply additional information between October 16, 2016 and November 15, 2016, or his financial assistance might end.

Because there was no response to this notice between October 16, 2016 and November 15, 2016, your youngest child was terminated from his Medicaid Managed Care plan effective November 30, 2016.

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However, you testified and the record reflects that you had previously elected to receive alerts regarding notices from NYSOH electronically.

NYSOH's appeal summary, references complaint [REDACTED] which alleges that on October 11, 2016 you received an e-mail directing you to the October 10, 2016 renewal notice, which prompted you to update your account on October 11, 2016.

A review of the phone recordings reveals that you never indicated to NYSOH that you had received such an e-mail alert. Furthermore, you repeatedly stated to NYSOH representative that you had not, in fact, received such an e-mail alert. The failure to receive such an e-mail alert prompted you to change from paperless alerts to regular mail notices, as evidenced in the December 16, 2016 phone call recording. Additionally, during the hearing you indicated that the update to your account on October 11, 2016 was not in response to the renewal notice, as you had also indicated in your phone call with NYSOH on December 20, 2016. The record also reflects that you would periodically update the information in your NYSOH account. Therefore, your testimony that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account, is more than credible.

Furthermore, there is no evidence in your account showing that any email alert was sent to you regarding the need to renew your youngest child's application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your youngest child's eligibility for financial assistance through NYSOH on December 15, 2016, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

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.

Had the information been submitted between October 16, 2016 and November 15, 2016, your youngest child's eligibility for and enrollment in his Child Health Plus plan would have begun on December 1, 2016.

Therefore, the December 16, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective December 1, 2016.

Your case is RETURNED to NYSOH to enroll your youngest child into his Child Health Plus plan as of December 1, 2016.

Decision

The December 16, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective December 1, 2016.

Your case is RETURNED to NYSOH to enroll your youngest child into his Child Health Plus plan as of December 1, 2016.

Effective Date of this Decision: March 29, 2017

How this Decision Affects Your Eligibility

Your youngest child's enrollment in his Child Health Plus plan should have been effective as of December 1, 2016.

Your case is being sent back to NYSOH to enroll your youngest child in his Child Health Plus plan as of December 1, 2016.

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)).

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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

Summary

The December 16, 2016 eligibility determination and enrollment confirmation notices are MODIFIED to state that your youngest child's eligibility for and enrollment in his Child Health Plus plan was effective December 1, 2016.

Your youngest child's enrollment in his Child Health Plus plan should have been effective as of December 1, 2016.

Your case is RETURNED to NYSOH to enroll your youngest child into his Child Health Plus plan as of December 1, 2016.

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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 bεtumi ama wo obi a okyerε 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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