



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

Notice of Decision

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014460

[REDACTED]

Dear [REDACTED],

On March 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2016 eligibility determination and November 23, 2016 disenrollment 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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Decision

Decision Date: April 04, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014460



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 youngest child's eligibility for and enrollment in Child Health Plus (CHP) terminated effective November 30, 2016?

Procedural History

On August 9, 2016, your child was added to your NYSOH account and an application was submitted on his behalf.

On August 10, 2016, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in CHP with a \$30.00 per month premium, effective September 1, 2016. The notice requested that you provide documentation confirming his citizenship status and Social Security number before November 7, 2016.

Also on August 10, 2016, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective September 1, 2016.

On November 14, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed his citizenship status and Social Security number within the required timeframe.

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On November 23, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in his CHP plan would end effective November 30, 2016 because he is no longer eligible to enroll in health insurance through NYSOH.

On December 29, 2016, your child's Social Security Number was added to your NYSOH account.

On December 30, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective February 1, 2017.

Also on December 30, 2016, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a CHP plan with a February 1, 2017 plan start date.

That same day, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his CHP plan in the months of December 2016 and January 2017.

On March 21, 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 CHP plan for the months of December 2016 and January 2017.
- 2) The record indicates that your child was added to your NYSOH account on August 9, 2016. The application that was submitted that day indicated that he was a U.S Citizen. He did not have a Social Security number, but you were in the process of applying for one.
- 3) You testified that you updated your application by phone when you were still in the hospital after giving birth to your child, and you were not informed that you needed to supply any additional information after the application was completed.
- 4) You testified that you receive email alerts regarding notices from NYSOH.

- 5) You testified that you have never received any email alerts regarding notices having to do with your youngest son.
- 6) You testified that you never received the August 10, 2016 eligibility determination stating that you needed to provide your youngest son's Social Security Number.
- 7) You testified that you paid premiums for your child's CHP plan for the months of December and January.
- 8) You testified that you did not know your child had been disenrolled from his CHP plan until you took him to the hospital in December and were told that he did not have coverage.
- 9) You testified that you immediately called NYSOH and were told that you needed to provide his Social Security number, which you did that same day.
- 10) Your NYSOH account indicates that on December 29, 2016, your youngest child's social security number was added to your NYSOH account.

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 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) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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 PHL § 2511(2)(a)-(e)).

As a condition of eligibility for CHP, an individual, including children, must furnish their Social Security number and evidence of their citizenship or status as a

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qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for CHP if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

The State of New York has provided that a child's period of eligibility for CHP 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP terminated effective November 30, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

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If NYSOH cannot verify an individual's citizenship status or Social Security Number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your youngest child was added to your NYSOH account on August 9, 2016. The application that was submitted that day indicates that although he was a US Citizen, he did not have a Social Security number; you were in the process of applying for one.

In the eligibility determination issued on August 10, 2016, you were advised that your child's eligibility for CHP was only conditional, and that you needed to confirm his Social Security number and citizenship status before November 7, 2016.

You testified that you were not aware that NYSOH needed your child's Social Security number. You testified that you initially added your child to your application over the phone, and were not informed that you needed to provide any additional information. You further testified that you never received an email alert regarding the August 10, 2016 eligibility determination, nor did you ever receive the notice. You testified that you did not know that there was any issue regarding your youngest child's coverage until you took him to the hospital at the end of December 2016 and found out that his coverage he been terminated.

On November 23, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in his CHP plan would end effective November 30, 2016 because he was no longer eligible to enroll in health insurance through NYSOH. Per the eligibility determination issued on November 14 ,2016, day, this was because NYSOH did not receive documentation of his citizenship status and social security number.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent may take action to prevent a gap in coverage for the child. In this case, the notice formally disenrolling your child from her CHP plan was dated November 23, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the second following month. Since you would have received NYSOH's notice terminating your child's CHP eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until January 1, 2017.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to act to prevent a gap in CHP coverage for your child, and the

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November 14, 2016 eligibility determination and November 23, 2016 disenrollment notices are RESCINDED.

Decision

The November 14, 2016 eligibility determination November 23, 2016 and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into his CHP plan for the months of December 2016 and January 2017.

Effective Date of this Decision: April 04, 2017

How this Decision Affects Your Eligibility

Your child should not have been terminated from his CHP plan in December 2016 and January 2017 for failure to submit proof of his citizenship status and Social Security Number.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of December 2016 and January 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.

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:

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).

- 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 November 14, 2016 eligibility determination November 23, 2016 and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child into his CHP plan for the months of December 2016 and January 2017.

Your child should not have been terminated from his CHP plan in December 2016 and January 2017 for failure to submit proof of his citizenship status and Social Security Number.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of December 2016 and January 2017.

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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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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