



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

Notice of Decision

Decision Date: April 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014811

[REDACTED]

Dear [REDACTED]

On April 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 6, 2016 disenrollment notice and the October 10, 2016 eligibility determination 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: April 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000014811



Issues

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

Was your appeal of NY State of Health's October 6, 2016 disenrollment notice and the October 10, 2016 eligibility determination notice timely?

Did NY State of Health properly determine that your children's eligibility for and enrollment in their Child Health Plus plan with a \$9.00 monthly premium per child terminated effective October 31, 2016?

Procedural History

On July 26, 2016, NY State of Health (NYSOH) received your household's updated application for financial assistance with health insurance.

On July 27, 2016, NYSOH issued a notice of eligibility determination, based on your July 26, 2016 application, stating that your children were eligible to enroll in Child Health Plus for a limited time with a \$9.00 monthly premium per child, effective September 1, 2016. This notice directed you to provide proof of your household's income by September 14, 2016.

Also on July 27, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 26, 2016, stating that your children were enrolled in a Child Health Plus plan with a \$9.00 monthly premium per child, and that this enrollment in the plan would start September 1, 2016.

No income documentation was received by September 24, 2016.

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On October 5, 2016, NYSOH redetermined your children's eligibility for financial assistance with health insurance.

On October 6, 2016, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective October 31, 2016.

On October 10, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2016. This was because NYSOH could not verify the income listed in your application.

On November 3, 2016, you updated your household's application for financial assistance.

On November 4, 2016, NYSOH issued a notice of eligibility determination, based on your November 3, 2016 application, stating that your children were eligible for Child Health Plus with a \$9.00 monthly premium per child, effective December 1, 2016.

Also on November 4, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in their Child Health Plus plan with a \$9.00 monthly premium per child with a plan enrollment start date of December 1, 2016.

On January 12, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your children's Child Health Plus plan with a \$9.00 monthly premium per child as of October 31, 2016.

On April 18, 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, and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your children's eligibility was only conditional and that you needed to provide documentation of your income.

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- 3) You testified that you did not receive any electronic alerts notifying you of your children's disenrollment from their Child Health Plus plan or ineligibility for Child Health Plus.
- 4) You testified that you did not know that there was a problem with your children's coverage until [REDACTED], when you took your child to the doctor, and the doctor's office advised you that your children had been disenrolled from their coverage.
- 5) Your NYSOH account indicates that on October 5, 2016 your household's application was run and your children were found no longer eligible for Child Health Plus as of October 31, 2016.
- 6) You contacted NYSOH and updated your household's application on November 3, 2016.
- 7) You testified that after you updated your application on November 3, 2016, you were told that income documentation was no longer required.
- 8) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls between yourself and NYSOH.
- 9) On November 3, 2016, you placed a phone call to NYSOH. A review of the recording of that phone call reveals that you were contacting NYSOH to find out why your children's coverage had been terminated. During the course of that phone call, the NYSOH representative advised you that you could resubmit your children's application, but that this would result in your children being eligible for Child Health Plus as of December 1, 2016. You advised the NYSOH representative that you did not receive any e-mail alerts from NYSOH regarding your children's disenrollment and inquired if there was anyone you could speak to in order to have your children's coverage under Child Health Plus reinstated for November 2016. The NYSOH representative advised you that speaking to someone would not help you. You then spoke with someone who identified themselves as a supervisor. This individual advised you that there was absolutely nothing that could be done about your children's lapse in coverage for November 2016, and that even if you did not receive the e-mail alerts about the notices, you would still be held accountable for the information in those notices. The supervisor did advise you that you could file an appeal, but that the appeal process could "take a few years". You declined to file an appeal at that time because you did not want to wait years for the appeal. Neither the supervisor nor the representative advised you that you would have 60 days within which to file an appeal.
- 10) On January 11, 2017, you placed a call to NYSOH and were connected to the Account Review Unit. A review of the recording of that phone call reveals that you were contacting NYSOH because you had begun

receiving bills for medical treatment your children had received in November 2016. This call was prematurely disconnected.

11) On January 12, 2017, you placed a call to NYSOH and were connected to the Account Review Unit. A review of the recording of that phone call reveals that during that phone call you filed a formal appeal.

12) You testified that you are seeking to have your children reinstated into their Child Health Plus plan for the month of November 2016.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

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

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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).

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 (42 CFR § 600.330(e); 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 first issue under review is whether your appeal of NYSOH’s October 6, 2016 disenrollment notice and October 10, 2016 eligibility determination notice were timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your children’s disenrollment from their Child Health Plus plan on January 11, 2017, however, the phone call was dropped, and you did not file a formal appeal until January 12, 2017.

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Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your children's disenrollment from their Child Health Plus plan, an appeal should have been filed by December 12, 2016. The record reflects that you filed your appeal on January 12, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the October 6, 2016 disenrollment notice or the October 10, 2016 eligibility determination notice. There is no evidence in your account documenting that any email alert was sent to you regarding the October 6, 2016 disenrollment notice or the October 10, 2016 eligibility determination notice.

As you did not receive the October 6, 2016 disenrollment notice or the October 10, 2016 eligibility determination notice, there is no indication that you were ever made aware of the disenrollment date or your appeal rights.

Additionally, the record reflects that on November 3, 2017, an NYSOH representative, identifying themselves as a supervisor, advised you that the appeals process could take years, and it was this misinformation which caused you to decline the option of filing a formal appeal at that time. Furthermore, after you declined filing a formal appeal because you did not want to wait years for the process to conclude, the NYSOH representative did not inform you that any appeal must be filed within 60 days of the of the eligibility determination.

As you were not properly provided with the October 6, 2016 disenrollment notice or the October 10, 2016 eligibility determination notice, nor were you properly made aware of your appeal rights when you contacted NYSOH on November 3, 2016, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue is whether NYSOH properly determined that your children's eligibility for and enrollment in their Child Health Plus plan with a \$9.00 monthly premium terminated effective October 31, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in Child Health Plus, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's income documentation, it must provide the individual with notice of the inconsistency. NYSOH must then provide the

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individual with a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on July 27, 2016, you were advised that your children were eligible for Child Health Plus for a limited time, and that you needed to confirm your household's income before September 4, 2016.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, you testified, and the record reflects that you had elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the eligibility determination notice, which advised you that your children's eligibility was only conditional and that you needed to submit documentation to confirm your household's income. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your household's income in order to confirm your children's eligibility for Child Health Plus.

Since you did not receive proper notice that there was an inconsistency in your NYSOH account, the October 6, 2016 disenrollment notice and the October 10, 2016 eligibility determination notice, stating that your children were no longer eligible for Child Health Plus because you failed to submit documentation are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children's coverage in their Child Health Plus for the month of November 2016.

Decision

The October 10, 2016 notice of eligibility determination is **RESCINDED**.

The October 6, 2016 notice of disenrollment is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children's coverage into their Child Health Plus Plan with a \$9.00 monthly premium per child for the month of November 2016.

Effective Date of this Decision: April 25, 2017

How this Decision Affects Your Eligibility

NYSOH erred in terminating your children's Child Health Plus plan effective October 31, 2016, without the proper notice.

Your case is being sent back to NYSOH to reinstate your children's coverage in their Child Health Plus plan for the month of November 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)).

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.

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If You Have Questions about this Decision (Customer Service Resources):

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- 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 October 10, 2016 notice of eligibility determination is RESCINDED.

The October 6, 2016 notice of disenrollment is RESCINDED.

NYSOH erred in terminating your children's Child Health Plus plan effective October 31, 2016, without the proper notice.

Your case is RETURNED to NYSOH to reinstate your children's coverage into their Child Health Plus Plan with a \$9.00 monthly premium per child for the month of November 2016.

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

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).

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&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.

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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