



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

Notice of Decision

Decision Date: May 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015205

[REDACTED]

Dear [REDACTED],

On April 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2017 eligibility determination, January 20, 2017 disenrollment, and January 27, 2017 enrollment 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 Date: May 12, 2017

NY State of Health Account ID: [REDACTED]
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[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 that your and your spouse's enrollment in the Essential Plan was effective March 1, 2017?

Did NY State of Health (NYSOH) provide you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus would terminate effective January 31, 2017?

Procedural History

On January 12, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan, effective as of February 1, 2016, and your children were eligible to enroll in Child Health Plus, for a cost of \$9.00 per month, effective as of February 1, 2016.

Also on January 12, 2016, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in an Essential Plan and your children were enrolled in a Child Health Plus plan. The notice stated that the plans had enrollment start dates of February 1, 2016.

On December 3, 2016, NYSOH issued a notice that it was time to renew your family's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not decide whether your family would qualify for financial help paying for their health

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coverage for the upcoming policy period, and that you needed to update your account by January 15, 2017 or your family might lose the financial assistance you were all currently receiving.

No updates were made to your NYSOH account before by January 15, 2017.

On January 20, 2017, NYSOH issued three notices:

- (1) An eligibility redetermination notice stating that, effective February 1, 2017, your children were no longer eligible for health insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.
- (2) A disenrollment notice stating that your and your spouse's coverage in the Essential Plan and your children's Child Health Plus plan would end on January 31, 2017, because your family was no longer eligible to enroll in health insurance through NYSOH.
- (3) An eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017. The notice stated that you were not eligible for financial assistance because you did not respond to the renewal notice.

On January 26, 2017, your NYSOH account was updated.

Also on January 26, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's Essential Plan, and discontinuance of your four eldest children's Child Health Plus coverage.

On January 27, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan, effective as of March 1, 2017. The notice also stated in part that your four eldest children were eligible for Child Health Plus, effective as of March 1, 2017.

Also on January 27, 2017, NYSOH issued an enrollment notice confirming that you and your spouse were enrolled in an Essential Plan and your four eldest children were enrolled in a Child Health Plus plan. The notice stated that the plans had enrollment start dates of March 1, 2017.

On April 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the hearing.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You and your spouse were determined eligible for the Essential Plan on January 12, 2016, with an effective date of February 1, 2016.
- 2) Your children were determined eligible for Child Health Plus on January 12, 2016, with an effective date of February 1, 2016.
- 3) You testified that you receive your notices from NYSOH by regular mail.
- 4) You testified that you did receive a notice from NYSOH directing you update your NYSOH account to renew your family's financial assistance. However, the notice only states that your family's financial assistance may end and did not definitely state that the financial assistance would end.
- 5) The record reflects that on January 26, 2017, NYSOH received your family's updated application for financial assistance.
- 6) You and your spouse were enrolled in the Essential Plan and your four eldest children were enrolled in a Child Health Plus plan on January 26, 2017.
- 7) You testified that you want your and your spouse's Essential Plan and your children's Child Health Plus plan to start on February 1, 2017.
- 8) You testified that you and your spouse incurred approximately \$100.00 and your children incurred approximately \$600.00 in medical bills because of the lapse in coverage for February 2017.

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

Applicable Law and Regulations

Essential Plan Renewal

In general, NYSOH will review Essential Plan eligibility no more frequently than once every 12 months from the effective date of eligibility if enrollees are under age 65, not enrolled in minimum essential coverage, remain state residents, and do not have any changes in circumstances. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12 month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number,

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providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(a); 42 CFR § 600.320(d); NY Social Services Law § 369-gg(3) and (4)(d)); New York's Basic Health Plan Blueprint, pp. 8 and 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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 (42 CFR § 600.340(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 (42 CFR § 600.345; (NY Social Services Law § 369-gg(4)(c); 45 CFR § 155.335(g); New York's Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Child Health Plus Renewal

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 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

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- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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 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).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse's Essential Plan should have an enrollment start date of March 1, 2017.

You and your spouse were originally found eligible for the Essential Plan effective February 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for the Essential Plan 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 December 3, 2016 renewal notice stated that there was not enough information to determine whether you were eligible to continue your financial assistance for health insurance, and that you needed to update your account by January 15, 2017, or your financial assistance may end.

Because there was no timely response to this notice, your and spouse's coverage was terminated effective January 31, 2017.

The record reflects that you did receive a notice from NYSOH directing you to renew your family's financial assistance. You testified that you did not update your family's account because the notice stated that your family's financial assistance may end and did not definitely state that the financial assistance would end. Your position that your account was not updated because the renewal notice does not conclusively state that your and your spouse's financial assistance would end is not persuasive in absolving you from updating your information within the stated period on that notice; that is, by January 15, 2017.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated to ensure your and your spouse's eligibility for financial assistance would continue.

The record shows that on January 26, 2017, that the information in your NYSOH account was updated, and you and your spouse were enrolled in an Essential Plan.

The date on which the Essential Plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your Essential Plan on January 26, 2017, it must take effect on the first day of the second following month after January 26, 2017; that is, on March 1, 2017.

Therefore, NYSOH properly began your and your spouse's enrollment in the Essential Plan on March 1, 2017, and the notices to this effect are AFFIRMED in relevant part.

The second issue under review is whether NYSOH provided you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus would end as of January 31, 2017.

Your children were originally found eligible for Child Health Plus and enrolled effective February 1, 2016.

Generally, NYSOH must determine qualified children'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's December 3, 2016 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for her coverage. The notice directed you to update the information in your account by January 15, 2017 or the financial assistance your child was receiving might end.

No updates were made to your NYSOH account prior to January 15, 2017.

As a result, on January 20, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective January 31, 2017. Based on the eligibility determination issued on January 20, 2017, your children were no longer eligible because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent can take action to prevent a gap in coverage for the child. You were first informed that your children's coverage through their Child Health Plus plan would end in the January 20, 2017 eligibility determination and disenrollment notices.

The record indicates that on January 26, 2017, you updated your NYSOH account and reenrolled your children in a Child Health Plus plan.

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 received NYSOH's notices terminating your child's Child Health Plus eligibility after the 15th of the

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month, any changes you made to your account would not have been effective until March 1, 2017, resulting a gap in coverage.

Therefore, based on the CHP notice rules, NYSOH failed to provide you with proper and adequate notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your children for the month of February 2017. Therefore, the January 20, 2017 eligibility redetermination and disenrollment notices, insofar as those notices relate to your children's Child Health Plus coverage, are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2017.

Decision

The January 27, 2017 enrollment notice, insofar as your and your spouse's enrollment in the Essential Plan, is AFFIRMED.

The January 20, 2017 eligibility redetermination notice, insofar as your children's Child Health Plus eligibility, is RESCINDED.

The January 20, 2017 disenrollment notice, insofar as the termination of your children's Child Health Plus coverage, is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2017.

Effective Date of this Decision: May 12, 2017

How this Decision Affects Your Eligibility

You and your spouse are enrolled in the Essential Plan with an enrollment start date of March 1, 2017.

Your children should not have been terminated from their Child Health Plus plan effective January 31, 2017, because NYSOH failed to issue a proper and adequate disenrollment notice.

Your case is being sent back to NYSOH to reinstate your children's Child Health Plus for the month of February 2017.

You will be responsible to pay any applicable health insurance premiums to effectuate your children's health insurance coverage that month.

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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
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The January 27, 2017 enrollment notice, insofar as your and your spouse's enrollment in the Essential Plan, is **AFFIRMED**.

The January 20, 2017 eligibility redetermination notice, insofar as your children's Child Health Plus eligibility, is **RESCINDED**.

The January 20, 2017 disenrollment notice, insofar as the termination of your children's Child Health Plus coverage, is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2017.

You and your spouse are enrolled in the Essential Plan with an enrollment start date of March 1, 2017.

Your children should not have been terminated from their Child Health Plus plan effective January 31, 2017, because NYSOH failed to issue a proper and adequate disenrollment notice.

Your case is being sent back to NYSOH to reinstate your children's Child Health Plus for the month of February 2017.

You will be responsible to pay any applicable health insurance premiums to effectuate your children's health insurance coverage that month.

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&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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