



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

Notice of Decision

Decision Date: June 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015484

[REDACTED]

Dear [REDACTED],

On May 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 17, 2016 eligibility determination notice, December 30, 2016 eligibility determination notice, and January 6, 2017 plan 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 at the top of this letter.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(b).

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: June 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015484

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Issues

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

Did NY State of Health properly determine that your child was eligible for a full price qualified health plan, effective December 1, 2016?

Did NY State of Health properly determine that your child's Child Health Plus plan with a \$30.00 monthly premium began on February 1, 2017?

Procedural History

On October 10, 2016, NY State of Health (NYSOH) issued a renewal notice stating that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information between October 16, 2016 through November 15, 2016 or any such financial assistance might end.

No updates were made to your NYSOH account by November 15, 2016.

On November 16, 2016, NYSOH ran an application on your behalf.

On November 17, 2016, NYSOH issued an eligibility determination notice stating that your child was newly eligible to purchase a qualified health plan at full cost through NYSOH, effective December 1, 2016. This notice further stated that this was because you did not respond to the renewal notice within the time frame and, as a result, your child was no longer able to receive financial assistance to help pay for his health coverage.

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On November 25, 2016, NYSOH issued a plan disenrollment notice stating that your child was disenrolled from his Child Health Plus plan, effective November 30, 2016.

On December 29, 2016, NYSOH received your updated application for financial assistance with health insurance.

On December 30, 2016, NYSOH issued an eligibility determination stating that you child was eligible for a Child Health Plus plan with a \$30.00 monthly premium, for a limited time, effective February 1, 2017.

On January 5, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan with a \$30.00 monthly premium for a limited time, effective February 1, 2017.

On February 2, 2017, you spoke to the NYSOH's Account Review Unit and requested an appeal of the start date of your child's health insurance coverage insofar as it started on February 1, 2017 and not December 1, 2016.

On May 4, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. Testimony was taken at the hearing under oath and the record was fully developed. The record is now complete and closed.

Findings of Fact

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

- 1) According to you NYSOH account and testimony, you receive your notices from NYSOH by electronic alert.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application to renew your child's eligibility. You also did not receive any renewal notice by regular mail.
- 3) You testified that you did not know that you needed to update your account until you brought your child to the doctor and were told that his insurance had ended on November 30, 2016.
- 4) According to your NYSOH account, on December 29, 2016, NYSOH received your updated application for health insurance.

- 5) According to your NYSOH account, your child was determined eligible for a Child Health Plus plan with a \$30.00 monthly premium, effective February 1, 2017.
- 6) According to your NYSOH account, you enrolled your child into a Child Health Plus plan with a \$30.00 monthly premium on January 5, 2017.
- 7) You testified that you are seeking to have your child's coverage in his Child Health Plus plan to begin on December 1, 2016 because he has unpaid medical bills for that month.

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

Applicable Law and Regulations

Child Health Plus Renewal:

In general, the NYSOH must review Child Health Plus eligibility once every twelve 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)). The 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), 42 CFR § 457.343).

The 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, the NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates 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 (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)).

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Child Health Plus, Effective Date

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 first issue under review is whether NYSOH properly determined that your child was eligible for a full price qualified health plan, effective December 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is 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 child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information between October 16, 2016 through November 15, 2016 or any such financial assistance might end.

Because there was no timely response to this notice, your children’s coverage through Child Health Plus plan was terminated effective November 30, 2016 and NYSOH found your child eligible for a full price qualified health plan effective December 1, 2016.

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However, the record reflects that you initially elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your 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 to you that you needed to update your account.

Therefore, the November 17, 2016 eligibility determination stating that your child was eligible for a full price qualified health plan, effective December 1, 2016, is **RESCINDED**.

The second issue under review is whether NYSOH properly determined that your child's Child Health Plus plan start date was February 1, 2017.

You first renewed your children's eligibility for financial assistance through NYSOH for the new coverage year on December 29, 2016 and, therefore, we must assume that this 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 you received timely and proper notice and submitted the required information by November 15, 2016, you could have selected a plan for enrollment on or before that date. Had this occurred, your child's eligibility and enrollment in a Child Health Plus plan with a \$30.00 monthly premium would have begun on the first month following November 2016; that is, December 1, 2016.

Therefore, and the December 30, 2016 eligibility determination notice and January 6, 2017 plan enrollment notice are **MODIFIED** to state that your child's eligibility for Child Health Plus and enrollment in his Child Health Plus plan with a \$30.00 monthly premium are effective December 1, 2016.

Your case is **RETURNED** to NYSOH to enroll your child in his Child Health Plus plan with a \$30.00 monthly premium, effective December 1, 2016, and to notify you accordingly.

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).

Decision

The November 17, 2017 eligibility determination is RESCINDED.

The December 30, 2016 eligibility determination notice and the January 6, 2017 plan enrollment notice are MODIFIED to state that your child's Child Health Plus eligibility and plan enrollment start date is December 1, 2016.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan with a \$30.00 monthly premium, effective December 1, 2016, and to notify you accordingly.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: June 2, 2017

How this Decision Affects Eligibility

The effective date of your child's Child Health Plus plan with a \$30.00 monthly premium is December 1, 2016.

You will be responsible to pay all health insurance premiums for the months your child is enrolled into coverage; specifically, the monthly premiums for December 2016 and January 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

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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 17, 2017 eligibility determination is **RESCINDED**.

The December 30, 2016 eligibility determination notice and the January 6, 2017 plan enrollment notice are **MODIFIED** to state that your child's Child Health Plus eligibility and plan enrollment start date is December 1, 2016.

Your case is **RETURNED** to NYSOH to enroll your child in his Child Health Plus plan with a \$30.00 monthly premium, effective December 1, 2016, and to notify you accordingly.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

The effective date of your child's Child Health Plus plan with a \$30.00 monthly premium is December 1, 2016.

You will be responsible to pay all health insurance premiums for the months your child is enrolled into coverage; specifically, the monthly premiums for December 2016 and January 2017.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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).

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)

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).

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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