



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

Notice of Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015908

[REDACTED]

Dear [REDACTED],

On June 12, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 17, 2017 disenrollment notice, January 25, 2017 enrollment notice, and January 28, 2017 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.

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Decision

Decision Date: June 30, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015908



Issues

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

Did NY State of Health (NYSOH) properly terminate your children's Child Health Plus plan for non-payment of premium effective, January 1, 2017?

Did NYSOH properly determine that your children's reenrollment in their Child Health Plus plan was effective March 1, 2017?

Did NYSOH properly determine that your children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium per child, effective March 1, 2017?

Procedural History

On October 21, 2016, NYSOH issued a renewal notice stating that your children remained eligible for coverage with Child Health Plus with a \$60.00 monthly premium per child, effective January 1, 2017.

On November 18, 2016, NYSOH issued a notice of enrollment, stating that your children were enrolled in a Child Health Plus plan with a \$60.00 monthly premium per child, and that this enrollment in the plan would start January 1, 2017.

On January 17, 2017, NYSOH issued a disenrollment notice stating that your children's enrollment in their Child Health Plus plan was terminated, effective

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January 1, 2017, because a premium payment had not been received by their health plan.

On January 25, 2017, NYSOH issued an enrollment notice, based on your January 24, 2017 plan selection, stating that your children were reenrolled in their Child Health Plus plan, effective March 1, 2017.

On January 27, 2017, NYSOH received your children's updated application for health insurance.

On January 28, 2017, NYSOH issued a notice of eligibility determination, based on your January 27, 2017 application, stating that your children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium per child, effective March 1, 2017.

Also on January 28, 2017, NYSOH issued a notice of enrollment, based on your plan selection on January 27, 2017, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on March 1, 2017.

On February 16, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as they did not have coverage for the month of February 2017, as well as the cost of your children's Child Health Plus premiums.

On June 12, 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 appealing your children's disenrollment from their Child Health Plus plan for the month of February 2017, as well as their \$60.00 Child Health Plus premium.
- 2) Your children were enrolled into a Child Health Plus plan, effective January 1, 2017.
- 3) You testified that you issued the January 2017 premium to your children's Child Health Plus plan on January 13, 2017, however, due to the Monday holiday, the payment was received late.
- 4) Your children were disenrolled from their Child Health plus plan, effective January 1, 2017.

- 5) You testified that you became aware that your children had been disenrolled from their Child Health Plus plan in January 2017.
- 6) You testified that when you became aware that your children had been disenrolled you contacted NYSOH to reenroll them.
- 7) The record reflects that you contacted NYSOH to reenroll your children in their Child Health Plus plan on January 24, 2017.
- 8) On January 27, 2017, NYSOH received your updated application for financial assistance.
- 9) You testified that you expect to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your three children as dependents on that tax return.
- 10) The application that was submitted on January 27, 2017 listed annual household income of \$117,000.00, consisting of \$65,000.00 you earn from your employment and \$52,000.00 your spouse earns from employment. You testified that this amount was correct.
- 11) At the time of your January 27, 2017 application, your children were [REDACTED].
- 12) Your application states, and you confirmed, that you will not be taking any deductions on your 2017 tax return.
- 13) Your application states that you live in Dutchess County.

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

Applicable Law and Regulations

Appealable Issues

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 NYSOH 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)).

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Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

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

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

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL, but no more than \$27.00 per month per family (NY PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than \$54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL, but no more than \$135.00 per month per family (NY PHL § 2510(9)(d)(v)).

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The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL, but no more than \$180.00 per child (NY PHL § 2510(9)(d)(vi)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is \$28,780.00 for a five-person household (82 Fed. Reg. 8831).

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 Child Health Plus 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)).

If a household reports an increase in income within the twelve-month period of coverage, the required family contribution shall not be redetermined, as the children are eligible for twelve months of coverage at the level the children were found eligible for at initial application or recertification. If a household reports a decrease in income within the twelve-month period of coverage, the child's eligibility and family contribution shall be redetermined (CHPlus ADM 50).

“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 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 terminated your children's Child Health Plus plan for non-payment of premium effective, January 1, 2017.

On November 18, 2016, your children were enrolled in a Child Health Plus plan, effective January 1, 2017.

You testified that you paid your premiums to your children's Child Health Plus plan for January 2017. However, in January 2017 you were late with payment.

On January 17, 2017, NYSOH issued a notice stating that your children were disenrolled from their Child Health Plus plan for non-payment of premiums, effective January 1, 2017.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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 to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the January 17, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your children's reenrollment in their Child Health Plus plan was effective March 1, 2017.

You contacted NYSOH on January 24, 2017 to reenroll your children into their Child Health Plus plan.

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.

As you contacted NYSOH to reenroll your children into a Child Health Plus plan on January 24, 2017, their reenrollment should have taken effect the first day of the second following month after January 2017; that is, on March 1, 2017.

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Therefore, the January 25, 2017 enrollment confirmation notice stating that your children's reenrollment in their Child Health Plus plan was effective March 1, 2017 is AFFIRMED.

The third issue is whether NYSOH properly determined that your children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium per child, effective March 1, 2017.

According to the record, you expect to file your 2017 tax return as married filing jointly and will claim your three children as dependents on that return. Therefore, your children are in a five-person household.

In your January 27, 2017 application, you attested to an expected household income of \$117,000.00. This application also stated that your children were [REDACTED]

A child is eligible to enroll in Child Health Plus with a subsidy if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Households with an income above 400% of the FPL are not eligible to receive a subsidy payment. Since \$117,000.00 is 406.53% of the 2017 FPL, your children would not be eligible for a premium subsidy.

However, in households with an increase in income, children are guaranteed their lower premium for twelve months before their premium is redetermined.

As NYSOH determined your children were eligible for Child Health Plus with a \$60.00 monthly premium per child on October 4, 2016, effective January 1, 2017, this premium is effective for twelve months.

Therefore, the January 28, 2017 eligibility determination is AFFIRMED.

Decision

Your appeal of the insurer's termination of your children's enrollment in their Child Health Plus plan for non-payment of premiums, effective January 1, 2017, is DISMISSED as a non-appealable issue.

The January 25, 2017 enrollment confirmation notice is AFFIRMED.

The January 28, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 30, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

Your children's reenrollment in their Child Health Plus plan was effective March 1, 2017.

Your children remain eligible for Child Health Plus with a \$60.00 monthly premium per child.

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 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).

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

Your appeal of the insurer's termination of your children's enrollment in their Child Health Plus plan for non-payment of premiums, effective January 1, 2017, is **DISMISSED** as a non-appealable issue.

The January 25, 2017 enrollment confirmation notice is **AFFIRMED**.

The January 28, 2017 eligibility determination notice is **AFFIRMED**.

This decision does not change your children's eligibility.

Your children's reenrollment in their Child Health Plus plan was effective March 1, 2017.

Your children remain eligible for Child Health Plus with a \$60.00 monthly premium per child.

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)

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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. y&b&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.

שׂוֹדֵשׁ (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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