



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

Notice of Decision

Decision Date: July 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016006

[REDACTED]

Dear [REDACTED],

On May 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 11, 2016 disenrollment notice and the February 1, 2017 enrollment confirmation 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 NY State of Health 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: July 17, 2017

NY State of Health Account ID: [REDACTED]
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Issues

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

Is your appeal of the December 11, 2016 disenrollment notice timely?

Did NY State of Health (NYSOH) properly determine your children's Child Health Plus coverage became effective no earlier than March 1, 2017?

Procedural History

On July 11, 2016, NYSOH issued a notice of eligibility determination, based on your July 10, 2016 updated application, stating your children were eligible for Child Health Plus effective August 1, 2016. Your children were subsequently enrolled in a Child Health Plus plan.

On December 10, 2016, NYSOH received your updated application for financial assistance with health insurance for your children.

On December 11, 2016, NYSOH issued a notice stating the income information in your application did not match information obtained from state and federal data sources. The notice directed you to provide proof of your household's income by December 25, 2016 or NYSOH would not be able to determine your children's eligibility for health coverage.

Also on December 11, 2016, NYSOH issued a notice of disenrollment stating your children's Child Health Plus coverage would end on December 31, 2016, because they were no longer eligible to enroll in the plan.

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On January 6, 2017, NYSOH issued an eligibility determination notice, based on a January 5, 2017 systematic eligibility redetermination, stating your children were eligible to purchase a full cost qualified health plan, effective February 1, 2017. The notice indicated your children were not eligible for financial assistance because NYSOH had not received the requested income documentation to verify the income information listed in the application.

On January 13, 2017, NYSOH issued a notice stating the income documentation submitted did not confirm the information in your application. The notice directed you to submit additional proof of your household's income by January 27, 2017.

On January 31, 2017, NYSOH issued an eligibility determination notice, based on a January 30, 2017 systematic redetermination, stating your children were eligible for Child Health Plus, effective March 1, 2017.

On February 1, 2017, NYSOH issued an enrollment confirmation notice, based on your January 31, 2017 plan selection, stating your children were enrolled in a Child Health Plus plan, effective March 1, 2017.

On February 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin February 1, 2017.

On May 30, 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 support the following findings of fact:

- 1) Your testified this appeal only involves [REDACTED] and [REDACTED]. You testified [REDACTED] is enrolled in health coverage outside of NYSOH.
- 2) Two of your children enrolled in a Child Health Plus plan, effective August 1, 2016.
- 3) On December 10, 2016, you updated your application by decreasing your attested annual household income to \$14,000.00. The application indicated your annual income was \$14,000.00 and your spouse's income was \$0.00.
- 4) You testified your spouse lost his job in August 2016, so you only included your income in the December 10, 2016 application.

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- 5) According to your account, NYSOH was unable to verify the income information listed in the application and proof of your household's income was requested by December 25, 2016.
- 6) You testified you received the December 11, 2016 notice directing you to submit proof of your household's income by December 25, 2016 or NYSOH would not be able to determine your children's eligibility for health coverage.
- 7) You testified you did not receive the December 11, 2016 notice of disenrollment stating your children's Child Health Plus coverage would end on December 31, 2016, because they were no longer eligible to remain enrolled in the plan.
- 8) You testified, and your account confirms, you receive your correspondence from NYSOH by regular mail.
- 9) You confirmed the mailing address listed on the December 11, 2016 disenrollment notice was your correct mailing address.
- 10) There is no evidence in your account that the December 11, 2016 disenrollment notice was returned to NYSOH as undeliverable.
- 11) According to your account, on December 22, 2016, you uploaded two copies of the same biweekly paystub with a December 9, 2016 check date ([REDACTED], [REDACTED]).
- 12) At the hearing, you acknowledged that you only uploaded one paystub in December 2016. You testified this was an accident.
- 13) According to your account, NYSOH systematically redetermined your children's eligibility on January 5, 2017 and found them ineligible to receive financial assistance because you had not provided sufficient income documentation to verify the information in your application by the December 25, 2016 due date.
- 14) On January 12, 2017, NYSOH invalidated your income documentation.
- 15) You testified you received the January 13, 2017 notice from NYSOH indicating the income documentation received was insufficient and directing you to submit additional documentation.
- 16) You testified you submitted updated paystubs in response to that notice.

- 17) Your account confirms that on January 21, 2017 you submitted two updated biweekly paystubs and your spouse submitted an employment letter indicating his pay rate and hours worked.
- 18) The income documentation submitted on January 21, 2017 was verified by NYSOH on January 30, 2017 and your children were determined eligible to enroll in Child Health Plus, effective March 1, 2017.
- 19) According to your account, you selected a health plan for your children on January 31, 2017. Coverage through that plan became effective March 1, 2017.
- 20) You testified you are appealing your children's disenrollment from their Child Health Plus plan, because you never received notice of the disenrollment. You are also appealing the start date of their subsequent enrollment insofar as it was not effective February 1, 2017.
- 21) According to your account, your children were without health coverage for the months of January and February 2017. You testified your children have outstanding medical bills from this time.
- 22) According to your account, a formal appeal was filed on your behalf on February 21, 2017.

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 NYSOH to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 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 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)).

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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)). 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)).

Child Health Plus – Effective Dates of Coverage

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 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 your appeal of the December 11, 2016 disenrollment notice was timely.

Your children enrolled in a Child Health Plus plan, effective August 1, 2016. On December 10, 2016, you updated your application and reduced your attested household income to \$14,000.00. As a result of the information in that application, NYSOH determined your children were no longer eligible to remain enrolled in their Child Health Plus plan and issued a disenrollment notice dated

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December 11, 2016 indicating your children's coverage would end on December 31, 2016.

Although you testified you did not receive the December 11, 2016 disenrollment notice, you confirmed the mailing address listed on the notice was your correct mailing address and there is no evidence in your account that the notice was returned to NYSOH as undeliverable. Additionally, you admitted to receiving other notices issued by NYSOH at or around the date of the subject December 11, 2016 disenrollment notice which all listed the same mailing address. Accordingly, it is concluded NYSOH provided you with proper notice that your children's Child Health Plus coverage would end on December 31, 2016.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 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 December 31, 2016 disenrollment from their Child Health Plus plan, as stated in the December 11, 2016 disenrollment notice, an appeal should have been filed by February 9, 2017. According to your account, a formal appeal was not filed in this matter until February 21, 2017, after the 60-day period in which to appeal had passed.

Therefore, given the facts of the case, there has been no timely appeal of the December 11, 2016 disenrollment notice, and your appeal on the issue of your children's December 31, 2016 disenrollment from their Child Health Plus plan is **DISMISSED**.

The second issue under review is whether NYSOH properly determined your children's Child Health Plus coverage became effective no earlier than March 1, 2017.

The evidence establishes that you updated your application on December 10, 2016 by reducing your household's attested annual income, but NYSOH was unable to verify this information with state and federal data sources.

Pursuant to the regulations, for 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. 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. In the notice issued by NYSOH on December 11, 2016, NYSOH requested documentation to verify the income information listed in your application, by December 25, 2016.

Although your account confirms you submitted documentation on December 22, 2016, prior to the December 25, 2016 deadline, the documentation you submitted

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consisted of a single biweekly paystub which was insufficient to establish your household's income. NYSOH issued a notice dated January 13, 2017 indicating additional documentation was required and you and your spouse both submitted updated income documentation on January 21, 2017. According to your account, this documentation was validated by NYSOH, nine days later, on January 30, 2017 and your children's eligibility was systematically redetermined that day. Your children were determined eligible for Child Health Plus, effective March 1, 2017.

In accordance with the above cited regulation, 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 between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Your account confirms you selected a plan for your children on January 31, 2017. Since this was after the fifteenth day of the month, this plan properly became effective on the first day of the second following month; that is, on March 1, 2017.

It is noted that even if your application was deemed completed as of the date you submitted valid income documentation, January 21, 2017, and you were permitted to select a health plan that day, given the above referenced regulations, their coverage still would not have been effective until March 1, 2017.

Therefore, NYSOH's February 1, 2017 enrollment confirmation notice stating your children were enrolled in a Child Health Plus plan, effective March 1, 2017, is correct and is AFFIRMED.

Decision

Your appeal on the issue of your children's December 31, 2016 disenrollment from their Child Health Plus plan is untimely and is DISMISSED.

The February 1, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: July 17, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

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).

The effective date of your children's Child Health Plus plan is March 1, 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:

- 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

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your appeal on the issue of your children's December 31, 2016 disenrollment from their Child Health Plus plan is untimely and is **DISMISSED**.

The February 1, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plan is March 1, 2017.

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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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&btumi 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.