



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

Notice of Decision

Decision Date: July 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016065

[REDACTED]

Dear [REDACTED]

On June 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 21, 2016 disenrollment 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: July 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016065

[REDACTED]

Issues

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

Is your appeal of your September 30, 2016 disenrollment from your Essential Plan timely?

Did NY State of Health (NYSOH) properly terminate your Essential Plan coverage, effective September 30, 2016?

Procedural History

On December 15, 2015, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, effective January 1, 2016.

On December 18, 2015, NYSOH issued an enrollment notice confirming you were enrolled in an Essential Plan with dental and vision coverage, effective January 1, 2016.

On October 9, 2016, NYSOH issued a notice stating it was time to renew your child's health insurance for the upcoming coverage year. That notice stated that no action was needed regarding your coverage, that you would get your own renewal notice around November 16, 2016, and your current coverage would end on December 31, 2016.

On October 20, 2016, two updated applications for health insurance were submitted on your behalf.

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On October 21, 2016, NYSOH issued a disenrollment notice stating your Essential Plan with vision and dental coverage was terminated, effective September 30, 2016, because you were no longer eligible to remain enrolled in the plan.

Also on October 21, 2016, NYSOH issued an eligibility determination notice stating you were eligible for the Essential Plan, effective November 1, 2016. The notice further stated you no longer qualified for Medicaid as of October 31, 2016.

Additionally, on October 21, 2016, NYSOH issued an enrollment confirmation notice stating you were enrolled in an Essential Plan with medical coverage only, effective November 1, 2016.

Finally, on October 21, 2016, NYSOH issued a cancellation notice indicating your enrollment in a Medicaid Managed Care plan was terminated, effective December 1, 2016, because you were no longer eligible to enroll in the plan.

On October 27, 2016, NYSOH issued an enrollment notice stating you were enrolled in an Essential Plan with vision and dental coverage, effective December 1, 2016.

Also on October 27, 2016, NYSOH issued a disenrollment notice stating your Essential Plan with medical coverage only was terminated, effective November 30, 2016, because you requested to end the coverage on October 26, 2016.

On November 1, 2016, January 25, 2017, and January 30, 2017, NYSOH issued enrollment notices confirming your enrollment in an Essential Plan with vision and dental coverage, effective December 1, 2016.

On February 21, 2017, a formal appeal was filed on your behalf insofar as you were not enrolled in an Essential Plan for the months of October and November 2016.

On June 8, 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 and your child are both included on your account with NYSOH.
- 2) You testified that you do not claim your child as a dependent on your tax return, because your child's father does.

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- 3) You were determined eligible for the Essential Plan on December 15, 2015, with an effective date of January 1, 2016, based on a December 14, 2015 application.
- 4) That application indicated your household income was \$21,385.67 and that you would claim no dependents on your tax return.
- 5) On October 9, 2016, NYSOH issued a renewal notice indicating it was time to renew your child's health coverage for the upcoming coverage year. That notice indicated that your coverage required no action and that you would receive a renewal notice around November 16, 2016 regarding your coverage. The notice also indicated that your current coverage would end on December 31, 2016.
- 6) You testified you contacted NYSOH on October 20, 2016 to renew your child's coverage.
- 7) Your account confirms that on October 20, 2016, two applications were submitted on your behalf. The only difference in the applications was that the first one submitted indicated you would file your tax return with a head of household status and would claim your child as a dependent and the second application filed indicated you would file your tax return with a tax status of single and would claim no dependents.
- 8) You testified the NYSOH representative did not ask you whether you would claim your child as a dependent on your tax return and that he must have made that change on his own.
- 9) According to your account, following the October 20, 2016 updates, you were retroactively disenrolled from your Essential Plan, effective September 30, 2016, and enrolled into a Medicaid Managed Care plan, effective December 1, 2016. The same day your Medicaid Managed Care plan enrollment was cancelled, as of December 1, 2016, and you were enrolled in an Essential Plan with medical coverage only, effective November 1, 2016.
- 10) You testified you did not enroll into a Medicaid Managed Care plan and that you do not know why you were enrolled in an Essential Plan with medical coverage only on October 20, 2016. You testified you indicated you wanted a plan with vision and dental coverage and that you have always enrolled in a plan with vision and dental coverage.
- 11) You testified you paid your premiums for your Essential Plan with vision and dental coverage through the end of 2016 prior to being disenrolled.

- 12) According to your account, on October 26, 2016 you were enrolled in an Essential Plan with vision and dental coverage. This coverage became effective December 1, 2016.
- 13) The October 27, 2016 disenrollment notice indicated your coverage through your Essential Plan with medical coverage only would end on November 30, 2016, because you requested to end that coverage on October 26, 2016. Your account indicates this coverage was terminated, effective November 1, 2016.
- 14) Your account indicates, you contacted NYSOH on November 18, 2016 and incident [REDACTED] was created regarding your request to backdate your coverage through your Essential Plan with vision and dental coverage to October 1, 2016. According to notes related to that incident, NYSOH reviewed the telephone call recordings from October 20, 2016 and confirmed the following:
 - a. "agent does not ask consumer and does not confirm if she will be claiming child as a dependent on taxes."
 - b. "agent asks, 'Is your income going to be the same?' Consumer replies, 'Yes, nothing has changed.'
 - c. "Agent does not accurately confirm Tax Filing Status with consumer when updating application."
- 15) Additional notes related to incident [REDACTED] indicate that you contacted NYSOH several times to check on the status of your request to back date your Essential Plan with vision and dental coverage, but NYSOH did not notify you of its determination to deny your request until February 21, 2017.
- 16) Notes in your account indicate NYSOH denied your request because, "Applicant does not meet the criteria for backdating based on the justification provided ... [Applicant] has FFS Medicaid coverage for 10/01/16/-11/30/16."
- 17) According to your account, a formal appeal was filed on your behalf on February 21, 2017.
- 18) You testified, and your account confirms, you had fee-for-service Medicaid coverage for the months of October and November 2016.
- 19) You testified you have outstanding medical bills from those months because your providers do not accept fee-for-service Medicaid.

- 20) You testified you are seeking reinstatement in your Essential Plan with vision and dental coverage for the months of October and November 2016.

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

Applicable Law and Regulations

Timely Appeal Requests

Individual applicants and enrollees must generally 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)).

Essential Plan - Renewal

New York State has elected to adopt the Medicaid policy regarding continuous enrollment throughout the year (42 CFR § 600.320(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>).

This means that an individual may apply and enroll for coverage at any point in time throughout the year, including outside the open enrollment period and without needing a special enrollment period (NY Social Services Law § 369-gg(4)(d)).

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility, as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents. 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, 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(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (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>).

Legal Analysis

The first issue is whether your appeal of your September 30, 2016 disenrollment from your Essential Plan was timely.

NYSOH issued a disenrollment notice on October 21, 2016 indicating your coverage through your Essential Plan with vision and dental coverage was retroactively terminated, effective September 30, 2016, because you were no longer eligible to remain enrolled in the plan.

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 September 30, 2016 disenrollment from your Essential Plan with vision and dental coverage, as stated in the October 21, 2016 disenrollment notice, an appeal should have been filed by December 20, 2016. Your account confirms a formal appeal was not filed on your behalf until February 21, 2017, long after the 60-day period in which to appeal.

However, your account confirms that on November 18, 2016, you contacted NYSOH to request that your coverage through your Essential Plan with vision and dental coverage be backdated to October 1, 2016 and incident [REDACTED] was created that day. Notes in your account related to this incident confirm that you contacted NYSOH several times to check the status of your request, but that NYSOH did not notify you of its determination to deny your request until February 21, 2017. You contacted NYSOH the same day to file an appeal.

Accordingly, the evidence establishes that you contacted NYSOH within the 60-day period in which to appeal the September 30, 2016 disenrollment from your Essential Plan, to contest your coverage as of October 1, 2016. It is concluded this was sufficient to constitute an appeal of the September 30, 2016 disenrollment from your Essential Plan with vision and dental coverage, as stated in the October 21, 2016 disenrollment notice. It is noted that the evidence establishes that any delay in filing a formal appeal in this matter is the direct result of NYSOH's failure to timely resolve your request to backdate your subsequent Essential Plan enrollment.

Accordingly, it is concluded that your appeal of your September 30, 2016 disenrollment from your Essential Plan with vision and dental coverage was timely.

The second issue under review is whether NYSOH properly terminated your Essential Plan coverage, effective September 30, 2016.

You were determined eligible to enroll in the Essential Plan, effective January 1, 2016 and you subsequently enrolled in a plan with vision and dental coverage.

NYSOH issued a renewal notice on October 9, 2016 indicating it was time to renew your child's health coverage for the upcoming coverage year. That notice indicated that your coverage required no action and that you would receive a renewal notice around November 16, 2016 regarding your coverage. The notice also indicated that your current coverage would end on December 31, 2016.

On October 20, 2016, you contacted NYSOH to renew your child's coverage. That day your application was updated changing your tax filing status to head of household and indicating you were claiming your child as a dependent on your tax return. You testified you did not authorize this change to your application, because it was not accurate. Notes in your account related to incident [REDACTED] indicate NYSOH reviewed the telephone call recordings and confirmed that you stated nothing had changed since your last application and the NYSOH representative did "not accurately confirm [your] tax filing status when updating [your] application."

According to your account, as a result of the first application submitted on October 20, 2016, you were determined eligible for Medicaid and you were enrolled in a Medicaid Managed Care plan, effective December 1, 2016. Due to this updated eligibility, you were retroactively disenrolled from your Essential Plan, effective September 30, 2016. However, the evidence establishes that this new eligibility and resulting disenrollment was based on an inaccurate application that was the result of an error by a NYSOH representative.

Pursuant to the above cited regulations, an individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period running from the effective date of eligibility, 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, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances.

Since you were found eligible for and enrolled in the Essential Plan as of January 1, 2016, your coverage should have continued for 12 months; that is, until December 31, 2016, barring any of the disqualifying events stated above.

As discussed above, the evidence establishes the change in your eligibility was due to an inaccurate application update that was the result of an error by a NYSOH representative. This error is acknowledged by NYSOH in notes related to the incident created regarding your request to backdate your coverage. Furthermore, there is no evidence in the record to establish the existence of any other disqualifying events that would justify disenrolling you from your Essential Plan with vision and dental coverage prior to the end of the 12-month term.

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).

Accordingly, the October 21, 2016 disenrollment notice stating your coverage through your Essential Plan with vision and dental coverage was terminated, effective September 30, 2016, because you were no longer eligible to enroll in the plan, is not supported by the record and, as such, must be RESCINDED.

It is noted that although a corrected application was subsequently submitted on October 20, 2016, the plan enrollment submitted that day was for an Essential Plan with medical coverage only which was not effective until November 1, 2016. This enrollment was subsequently cancelled when you were enrolled in an Essential Plan with vision and dental coverage on October 26, 2016. However, coverage through this new enrollment was not effective until December 1, 2016. Accordingly, your case is RETURNED to NYSOH to facilitate correction of your enrollment, in accordance with this decision, and reinstate your coverage with your Essential Plan with vision and dental coverage for the months of October and November 2016.

Decision

Your appeal of the October 21, 2016 disenrollment notice was timely.

The October 21, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH facilitate correction of your enrollment, in accordance with this decision, and reinstate your coverage with your Essential Plan with vision and dental coverage for the months of October and November 2016.

Effective Date of this Decision: July 18, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan with vision and dental coverage on September 30, 2016.

Your case is being sent back to NYSOH to reinstate your coverage through your Essential Plan with vision and dental coverage for the months of October and 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.

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

Your appeal of the October 21, 2016 disenrollment notice was timely.

The October 21, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH facilitate correction of your enrollment in accordance with this decision and reinstate your coverage with your Essential Plan with vision and dental coverage for the months of October and November 2016.

You should not have been disenrolled from your Essential Plan with vision and dental coverage on September 30, 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

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।

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).

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. ye&etumi 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.