



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

Notice of Decision

Decision Date: July 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016715

[REDACTED]

Dear [REDACTED],

On June 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 17, 2017 disenrollment notice, and the February 28, 2017 eligibility determination and plan 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).

This page intentionally left blank.



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

Decision

Decision Date: July 26, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016715



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 you and your spouse's eligibility for and enrollment in your Essential Plan was effective April 1, 2017?

Did NYSOH provide you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus terminated as of February 28, 2017?

Procedural History

On February 11, 2016, NYSOH issued an eligibility determination notice, based on your February 10, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan and your children were eligible for Child Health Plus (CHP), both effective March 1, 2016. You and your spouse were enrolled in an Essential Plan 1 and your children were enrolled in a CHP plan, with plan start dates of March 1, 2016.

On January 5, 2017, NYSOH issued a notice that it was time to renew your family's health insurance for the upcoming coverage year. The notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for health coverage. The notice directed you to update the information in your account by February 15, 2017 or the financial assistance you, your spouse and your children were receiving might end.

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).

No updates were received by February 15, 2017, and NYSOH systematically redetermined your family's eligibility for financial assistance with health insurance.

On February 17, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were newly eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective March 1, 2017, and were not eligible for financial assistance because you did not respond to the renewal notice.

Also on February 17, 2017, NYSOH issued an eligibility determination notice stating that, effective March 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.

Also on February 17, 2017, NYSOH issued a disenrollment notice stating that your children's coverage through their CHP plan would end February 28, 2017 because you did not renew their health insurance coverage within the required timeframe. That same notice stated that your and your spouse's enrollment in your Essential Plan was terminated, effective February 28, 2017.

On February 27, 2017, you updated your family's application for financial assistance with health insurance through NYSOH.

On February 28, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium each, effective April 1, 2017. That same notice stated that your children were eligible to enroll in CHP, effective April 1, 2017.

Also on February 28, 2017, NYSOH issued a plan enrollment notice confirming your selection of an Essential Plan for you and your spouse, with a plan enrollment start date of April 1, 2017. That notice also confirmed your selection of a CHP Plan for your children on February 27, 2017, and stated they were enrolled in a CHP plan and that coverage would start on April 1, 2017.

On March 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your and your spouse's enrollment in the Essential Plan and the start date of your children's CHP plan in that those plans did not begin on March 1, 2017.

On June 23, 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) According to your NYSOH account and your testimony, you receive your notices from NYSOH by regular mail.
- 2) You testified that you received the January 5, 2017 notice to renew your family's health insurance and, at around the same time, you received an invoice for premiums from the health plan. You testified that you thought by paying the invoice for premiums, that you were all automatically renewed for coverage for another year.
- 3) The January 5, 2017, renewal notice does not indicate that your children's CHP plan enrollment would be terminated if you failed to respond. The notice does state that your children's financial eligibility might end.
- 4) The record reflects that on February 27, 2017, NYSOH received your updated application for health insurance for your family.
- 5) According to your NYSOH account and your testimony, on February 27, 2017, you and your spouse re-enrolled into an Essential Plan and your children were re-enrolled into a CHP plan.
- 6) You testified that you did not know that your family did not have health insurance until one of the family members went to the doctor in March 2017 and were informed that there was no current health insurance coverage.
- 7) You testified that you called the health plan and were told that paying the premium did not automatically renew your family's coverage and that your application with NYSOH determines your coverage start date.
- 8) You testified that you are seeking to have your and your spouse's coverage in the Essential Plan and the children's CHP plan start March 1, 2017, so there is no gap in coverage for any of your family members.

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 as long as 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, 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

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 “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 eligibility for and enrollment in your Essential Plan was effective April 1, 2017.

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

Generally, NYSOH will 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 January 5, 2017 renewal notice stated that there was not enough information to determine whether you and your spouse were eligible to continue your financial assistance for health insurance, and that you needed to supply additional information by February 15, 2017, or your financial assistance might end.

Because there was no timely response to this notice, you and your spouse were terminated from your Essential Plan, effective February 28, 2017.

You testified that you received the January 5, 2017 notice to renew your family's health insurance and, at around the same time, you received an invoice for premiums from the health plan. You testified that you thought by paying the invoice for premiums, you were all automatically renewed for coverage for another year.

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

The record shows that on February 27, 2017, you updated the information in your NYSOH account and submitted a request for you and your spouse to enroll 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 and your spouse's Essential Plan on February 27, 2017, it must take effect on the first day of the second following month after February 2016; that is, on April 1, 2017.

Therefore, NYSOH's February 28, 2017 eligibility determination notice and plan enrollment confirmation notices are AFFIRMED insofar as those notices relate to you and your spouse because they properly began your and your spouse's eligibility for and enrollment in the Essential Plan on April 1, 2017.

The second issue under review is whether NYSOH provided you proper and adequate notice that your children's eligibility for and enrollment in CHP terminated as of February 28, 2017.

Your children were originally found eligible for CHP and enrolled effective March 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP 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 January 5, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by February 15, 2017 or the financial assistance your children were receiving might end.

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

On February 17, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their CHP plan would end effective February 28, 2017. According to the eligibility determination issued on February 17, 2017, this was because you did not respond to the renewal notice and did not complete the renewal in the required timeframe.

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).

When NYSOH denies, terminates, or suspends children's CHP coverage, they are required to provide sufficient notice so that a children's parent is able to take action to prevent a gap in coverage for the children. Notice is considered received five days after the date on the notice. The January 5, 2017 renewal notice does not indicate that your children's CHP plan enrollment would be terminated if you failed to respond; only that it might end. You were first informed that your children's coverage through their CHP plan would end in the February 17, 2017 eligibility determination and disenrollment notices.

The record indicates that on February 27, 2017, you updated your NYSOH account and submitted an updated application for your children.

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 next following month. Since you would have received NYSOH's notice terminating your children's CHP eligibility after the 15th of the month, any changes you would have made to your account would not have been effective until April 1, 2017, and would not have prevented a gap in coverage.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your children for the month of March 2017.

As such, that portion of the February 17, 2017 disenrollment notice that states your children's enrollment in their CHP plan will end on February 28, 2017 and the February 17, 2017 eligibility determination notice finding your children ineligible for coverage effective March 1, 2017 are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their CHP plan for the month of March 2017 and to notify you accordingly.

Decision

The February 17, 2017 eligibility determination notice finding your children ineligible for coverage effective March 1, 2017 is RESCINDED.

That portion of the February 17, 2017 disenrollment notice stating your children's enrollment in their CHP plan will end on February 28, 2017 is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their CHP plan for the month of March 2017 and to notify you accordingly.

The February 28, 2017 eligibility determination and plan enrollment notices are AFFIRMED insofar as those notices relate to your and your spouse because they

properly began your and your spouse's eligibility for and enrollment in the Essential Plan on April 1, 2017.

Effective Date of this Decision: July 26, 2017

How this Decision Affects Your Eligibility

This decision does not change your or your spouse's eligibility.

The effective date of your and your spouse's Essential Plan is April 1, 2017.

Your children should not have been terminated from their CHP plan in March 2017, because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the month of March 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for CHP coverage for the month of March 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

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).

- 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The February 17, 2017 eligibility determination notice finding your children ineligible for coverage effective March 1, 2017 is **RESCINDED**.

That portion of the February 17, 2017 disenrollment notice stating your children's enrollment in their CHP plan will end on February 28, 2017 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their CHP plan for the month of March 2017 and to notify you accordingly.

The February 28, 2017 eligibility determination and plan enrollment notices are **AFFIRMED** insofar as those notices relate to your and your spouse because they properly began your and your spouse's eligibility for and enrollment in the Essential Plan on April 1, 2017.

This decision does not change your and your spouse'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 and your spouse's Essential Plan is April 1, 2017.

Your children should not have been terminated from their CHP plan in March 2017, because NYSOH failed to give proper notice.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the month of March 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for CHP coverage for the month of March 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 مجانًا.

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&btumi ama wo obi a okyer& 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.

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 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).