



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

Notice of Decision

Decision Date: August 4, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000017306

[REDACTED]

Dear [REDACTED]

On July 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 5, 2016 eligibility determination and August 16, 2016 enrollment confirmation 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 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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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 your children's coverage through Child Health Plus (CHP) ended on July 31, 2016?

Did NYSOH properly determine that your children's reenrollment in their CHP coverage began as of September 1, 2016?

Procedural History

On April 13, 2016, NYSOH received your household's updated application for health insurance.

On April 14, 2016, NYSOH issued an eligibility determination notice stating that your children were conditionally eligible to enroll in CHP with a \$9.00 monthly premium, each, effective May 1, 2016. The notice further stated that you needed to submit documentation of household income on behalf of your children by June 12, 2016.

Also on April 14, 2016, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning January 1, 2016.

On June 28, 2016, you faxed income documentation to NYSOH, which was uploaded to your account by NYSOH on June 30, 2016.

On July 4, 2016, NYSOH's system redetermined your household's eligibility.

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On July 5, 2016, NYSOH issued a notice of eligibility determination stating that your children were newly eligible to enroll in a qualified health plan at full cost, effective August 1, 2016. The notice further stated that your children were no longer eligible for CHP because NYSOH could not verify the income listed in your application.

Also on July 5, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP coverage was ending on July 31, 2016.

On July 6, 2016, your income documentation was verified and your household's eligibility was redetermined.

On July 7, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP with a \$9.00 monthly premium each, effective August 1, 2016.

On August 16, 2016, NYSOH issued a notice of enrollment confirmation, based on your plan selection on August 15, 2016, stating that your children were enrolled in a CHP plan, beginning September 1, 2016.

On March 27, 2017, you spoke to NYSOH's Account Review Unit and appealed, insofar as your children had a gap in their CHP coverage for the month of August 2016.

On July 20, 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, and the record reflects, that you are appealing only your children's eligibility.
- 2) You testified that it was probably your spouse who updated your household's application in April 2016, as she is the one who mostly speaks with NYSOH by phone. You testified that you generally handle anything that involves faxing or emailing, as you have access to a fax machine at your office.
- 3) You testified that you do not know whether your spouse was asked for income documentation in April 2016 when she updated your household's application for health insurance.

- 4) You testified that you do know that there was a request for you to provide income documentation at some point, and that you did submit documentation to NYSOH.
- 5) Your NYSOH account reflects that you are enrolled to receive email alerts regarding notices that are issued in your NYSOH account.
- 6) During the hearing, you confirmed that the email address that NYSOH has on file is a valid email address you use for your work, and that your spouse does not have access to this email.
- 7) You testified that you do not recall ever receiving emails from NYSOH at the email address that is on file, but that maybe you received some that you did not notice or that went to your spam email folder.
- 8) You testified that you do not specifically remember the April 14, 2016 notice that requested income documentation, but that you do recall being asked to provide income documentation.
- 9) You testified that you are self-employed, so you had not yet filed your 2015 tax return in April 2016. You testified that you thought you spoke to someone in May or June 2016 about your income documentation to let them know that you were waiting to submit it until you filed your income tax return.
- 10) After the hearing, the Hearing Officer requested NYSOH to provide any recordings of calls regarding your account for the months of May and June 2016, but the only call that existed was a call in which your spouse contacted NYSOH because she was trying to pay a premium payment for your children's coverage.
- 11) Your NYSOH account reflects that documentation was faxed to NYSOH on June 28, 2016, after the deadline of June 12, 2016, and that NYSOH uploaded this documentation to your account on June 30, 2016.
- 12) You testified that you and your spouse realized that your children were disenrolled from their coverage sometime in August 2016.
- 13) Your NYSOH account reflects that NYSOH reviewed and verified the income documentation that you uploaded and issued an eligibility determination based on this documentation on July 7, 2016. This notice found that your children were eligible for CHP as of August 1, 2016, and directed you to select a plan.
- 14) On August 15, 2016, a CHP plan was selected for your children, and their enrollment began on September 1, 2016.

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15) You testified that you have approximately \$575.00 in medical bills from the month of August 2016, when you were unaware that your children did not have coverage.

16) You testified that you are looking to have your children reinstated in their CHP plan for the month of August 2016.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for CHP 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) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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 PHL § 2511(2)(a)-(e)).

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable amount of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's CHP eligibility (42 CFR § 457.340(e)). When CHP 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 CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)). Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

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The State of New York has provided that a child's period of eligibility for CHP 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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children's enrollment in their CHP coverage ended effective July 31, 2016.

On April 14, 2016, NYSOH issued an eligibility determination based on your April 13, 2016 application. That determination stated that your children were eligible for CHP as of May 1, 2016. However, it also stated that your children's eligibility was conditional, and that you needed to submit income documentation on their behalf by June 12, 2016.

When an application requests financial assistance, NYSOH must verify an applicant's household income. If NYSOH cannot verify the household income attested to by the applicant, through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.

In the notice issued on April 14, 2016, you were advised that information was necessary to confirm your household's income.

You testified that your spouse was likely the person who updated your NYSOH account on April 13, 2016, and that you do not know whether she was asked for income documentation. You testified that you do know that you were asked to

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provide such documentation at some point, but that you could not submit it right away because you had not yet filed your tax return. You testified that you thought you spoke to NYSOH IN May or June 2016 to tell them that you needed more time to submit your documentation. However, there is no record of such a phone call with NYSOH.

Your NYSOH account reflects that you are enrolled to receive email alerts regarding notices issued in your NYSOH account. You confirmed that the email address NYSOH has on file is your work email address, and that it is still in use. You testified that you do not recall whether you received any emails regarding the April 14, 2016 eligibility determination, which requested income documentation. You further testified that you are not sure if you have received other emails from NYSOH, or whether some emails have perhaps gone into your “spam” folder.

Based on your testimony, there is no basis to conclude that NYSOH failed to send you an email regarding the April 14, 2016 eligibility determination since you admitted that you may have received emails from NYSOH, and since you indicated in your testimony that you do recall being asked to submit income documentation.

As such, NYSOH provided you with proper notice of the inconsistency in your income information, and that additional information was needed to by June 12, 2016 to resolve this inconsistency. Since the requested documentation was not provided until June 28, 2016, NYSOH properly determined that your children were no longer eligible for CHP as of July 31, 2016, because the income in the application could not be timely verified.

As such, the July 5, 2016 eligibility determination is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your children were re-enrolled in the CHP plan as of September 1, 2016.

The date on which a child’s enrollment in a CHP plan begins depends on the date the plan was selected. A plan selected between the first and fifteenth of the month will go into effect on the first day of the following month. A plan selected between the fifteenth and the last day of the month will go into effect on the first day of the second month following the date the plan was selected.

On August 15, 2016, you re-selected a CHP plan for your children. Therefore, their enrollment properly began the first day of the following month: September 1, 2016.

You testified that you and your spouse were not aware that your children had lost their coverage until mid-August, and that you contacted NYSOH and re-enrolled them in a plan upon making this realization.

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However, NYSOH redetermined your household's eligibility on July 6, 2016, after reviewing the income documentation you provided, and issued a notice of eligibility determination on July 7, 2016 stating that your children were eligible for CHP as of August 1, 2016. This means, if you had reviewed this notice, you would have had time to select a plan for your children by July 15, 2016, and their coverage could have started on August 1, 2016. Again, there is not enough information in the record to conclude that you did not receive the email regarding the July 7, 2016 eligibility determination.

Therefore, NYSOH's August 16, 2016 enrollment confirmation notice is **AFFIRMED**.

Decision

The July 5, 2016 eligibility determination notice is **AFFIRMED**.

The August 16, 2016 enrollment confirmation notice is **AFFIRMED**.

Effective Date of this Decision: August 4, 2017

How this Decision Affects Your Eligibility

Your children's eligibility for, and enrollment in, their CHP coverage ended effective July 31, 2016.

Your children's re-enrollment in their CHP plan began on September 1, 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

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

Summary

The July 5, 2016 eligibility determination notice is **AFFIRMED**.

The August 16, 2016 enrollment confirmation notice is **AFFIRMED**.

Your children's eligibility for, and enrollment in, their CHP coverage ended effective July 31, 2016.

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).

Your children's re-enrollment in their CHP plan began on September 1, 2016.

Legal Authority

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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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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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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