



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

Notice of Decision

Decision Date: May 08, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000018631

[REDACTED]

Dear [REDACTED],

On May 5, 2017, your Authorized Representative, [REDACTED] appeared by telephone at an expedited hearing on your appeal of NY State of Health's April 21, 2017 eligibility determination and April 22, 2017 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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Decision

Decision Date: May 08, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018631

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your ward's eligibility for and enrollment in Child Health Plus (CHP) terminated effective April 30, 2017?

Procedural History

On December 19, 2016, an application for financial assistance with health insurance was submitted on behalf of your ward through NYSOH.

On December 20, 2016, NYSOH issued a notice of eligibility determination stating that your ward was eligible for CHP with no monthly premium, effective February 1, 2017.

Also on December 20, 2016, NYSOH issued a notice of enrollment confirmation confirming your ward's enrollment in a CHP plan, with an enrollment start date of February 1, 2017.

On March 31, 2017, NYSOH issued a notice stating that additional information was needed to confirm your ward's eligibility. The notice further directed you to submit proof of your ward's immigration status by April 15, 2017.

On April 1, 2017, NYSOH issued a notice of eligibility determination stating that your ward was eligible to enroll in CHP with no monthly premium, effective May 1, 2017.

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Also on April 1, 2017, NYSOH issued a notice of enrollment confirmation confirming your ward's enrollment in his CHP plan, effective February 1, 2017.

On April 21, 2017, NYSOH issued a notice stating that your ward's eligibility had been redetermined, and that he no longer qualified for Medicaid, CHP, the Essential Plan, or to receive a tax credit through NYSOH. This was because NYSOH did not receive documentation of your ward's immigration status. The notice stated that his eligibility was ending effective April 30, 2017.

On April 22, 2017, NYSOH issued a notice of eligibility determination stating that your ward was newly eligible to purchase a qualified health plan at full cost, effective May 1, 2017.

Also on April 22, 2017, NYSOH issued a disenrollment notice stating that your ward was disenrolled from his CHP plan, effective April 30, 2017, because he was no longer eligible to enroll in that plan.

On May 2, 2017, your NYSOH account was updated.

On May 3, 2017, NYSOH issued a notice of eligibility determination stating that your ward was eligible for CHP with no monthly premium, effective June 1, 2017.

Also on May 3, 2017, NYSOH issued a notice of enrollment confirmation, confirming that your ward's enrollment in a CHP plan will begin on June 1, 2017.

That same day, your Authorized Representative spoke to NYSOH's Account Review Unit and appealed your ward's disenrollment from his CHP plan in the month of May 2017. Your AR also requested that your appeal be expedited.

On May 3, 2017, NYSOH granted your AR's request to expedite your appeal.

On May 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you appeared by telephone and gave permission to [REDACTED] to act as your Authorized Representative (AR), and then withdrew from the phone call. The hearing was conducted entirely with your AR. 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) Your AR testified that you are appealing the fact that your ward does not have CHP coverage in the month of May 2017.

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- 2) Your NYSOH account indicates that an application was filed on behalf of your ward on December 19, 2016. The application that was submitted that day indicates that his immigration status is "Other," and that he is not eligible for a Social Security number due to his immigration status.
- 3) Your AR testified that she completed the application submitted on December 19, 2016, in her role as a broker.
- 4) Your AR testified that, ordinarily, when additional documentation is needed by NYSOH, a window pops up at the end of the application and indicates this fact. She testified that no such window popped up when she completed your ward's application for coverage on December 19, 2016.
- 5) The notices of eligibility determination issued on December 20, 2016 and April 1, 2017 do not indicate that any additional documentation is needed for your ward's eligibility to be confirmed.
- 6) Your AR testified that your ward was born in [REDACTED], and is in the United States without documentation. She testified that there is no immigration documentation that can be provided on behalf of your ward because he does not have any status in the United States.
- 7) Your NYSOH account indicates that you receive notices from NYSOH by regular mail.
- 8) Your NYSOH account contains a notice issued on March 31, 2017 stating that you need to provide proof of your ward's immigration status. The notice is not in your inbox, but appears only under the "Generic Documents" tab under your name in your NYSOH account.
- 9) Your AR testified that you did not receive this notice. She testified that you have not been at home, as you have been in the hospital with your ward, but that you have had someone checking your mail, and that you did not receive the March 31, 2017 notice.
- 10) Your AR testified that she received a phone call from the hospital where your ward is being treated on May 1, 2017 informing her that your ward's CHP coverage had been cancelled.
- 11) Your AR testified that she contacted NYSOH and found out that the coverage was terminated because you did not provide documentation of your ward's immigration status.

- 12) Your AR testified that the individuals she spoke with at NYSOH informed her that the notice requesting this documentation was not in your NYSOH inbox, and that it had been put in the “wrong place” in your NYSOH account.
- 13) Your AR testified that she updated your NYSOH account again on May 2, 2017, and your NYSOH account confirms that your account was updated on that day, and your ward was found eligible for CHP, beginning June 1, 2017.
- 14) The eligibility determination notice issued on May 3, 2017 states that your ward is eligible for CHP, effective June 1, 2017, and it does not request any further documentation to confirm this eligibility.

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 (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)).

As a condition of eligibility for CHP, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant’s Social Security Number as a condition of enrollment for CHP if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR §

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435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

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 to allow CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your ward's eligibility for and enrollment in CHP terminated effective April 30, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their social security number and citizenship/immigration status.

If NYSOH cannot verify an individual's citizenship/immigration status or social security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that an application for financial assistance was filed on behalf of your ward on December 19, 2016. The application that was submitted

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that day indicated that his citizenship status was "Other," and that he did not have a Social Security number because he is not eligible for one, due to his immigration status.

In the eligibility determination issued on December 20, 2016, NYSOH did not condition your ward's eligibility for CHP on any additional paperwork, and he was found fully eligible for CHP, effective February 1, 2017. It was not until March 31, 2017 that NYSOH issued a notice stating that you had until April 15, 2017 to provide documentation of your ward's immigration status.

Your AR testified that your ward does not have any immigration status, as he was born in [REDACTED] and is in the United States without documentation. She testified, and the record confirms, that she provided this information at the time of application. Your AR further testified that you never received the March 31, 2017 notice, as you have been in the hospital with your ward, and, although your AR has been keeping track of the notices in your NYSOH inbox, this notice was never uploaded to your NYSOH inbox.

On April 22, 2017, NYSOH issued a disenrollment notice stating that your ward's coverage in his CHP plan would end effective April 30, 2017 because he was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on April 21, 2017, this was because NYSOH did not receive documentation of his immigration status.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent or caretaker relative is able to act to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your ward from his CHP plan was dated April 22, 2017. Therefore, the notice terminating your child's enrollment would be considered received as of April 27, 2017.

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

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 ward for the month of May 2017, and the April 21, 2017 eligibility determination and April 22, 2017 disenrollment notices are **RESCINDED**.

Decision

The April 21, 2017 eligibility determination notice is RESCINDED.

The April 22, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to immediately reinstate your ward into his CHP plan for the month of May 2017.

Effective Date of this Decision: May 08, 2017

How this Decision Affects Your Eligibility

Your ward should not have been terminated from his CHP plan in May 2017 for failure to submit proof of his immigration status.

Your case is being sent back to NYSOH to reinstate your ward into his CHP plan for the month of May 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

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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 April 21, 2017 eligibility determination notice is RESCINDED.

The April 22, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to immediately reinstate your ward into his CHP plan for the month of May 2017.

Your ward should not have been terminated from his CHP plan in May 2017 for failure to submit proof of his immigration status.

Your case is being sent back to NYSOH to reinstate your ward into his CHP plan for the month of May 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אַײַדיש (Yiddish)

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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