



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

Notice of Decision

Decision Date: September 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019030

[REDACTED]

On August 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 22, 2016 eligibility determination, December 22, 2016 disenrollment notice, May 17, 2017 eligibility determination, and May 17, 2017 enrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision Date: September 20, 2017

NY State of Health Account ID: [REDACTED]
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Issues

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

Was your appeal of NY State of Health's December 22, 2016 eligibility determination notice and December 22, 2016 disenrollment notice timely?

Did NY State of Health properly determine that your child's enrollment in his Child Health Plus plan was effective July 1, 2017?

Procedural History

On December 24, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective February 1, 2016.

Also on December 24, 2015, NYSOH issued a notice of enrollment confirmation stating that your child's enrollment in his Child Health Plus plan was effective February 1, 2016.

On October 22, 2016, NYSOH issued a renewal notice. This notice stated that your child was eligible to enroll in Child Health Plus, effective January 1, 2017. He would remain enrolled in his current plan with a \$9.00 monthly premium until January 31, 2017. His new premium of \$15.00 per month would begin on February 1, 2017.

Also on November 19, 2016, NYSOH issued a notice of enrollment confirmation stating that your child's enrollment in his Child Health Plus plan was effective January 1, 2017.

On December 22, 2016, NYSOH issued an eligibility determination stating that your child was newly eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017. Your child was no longer eligible for Child Health Plus because you told NYSOH that your child was enrolled in other health coverage.

Also on December 22, 2016, NYSOH issued a disenrollment notice stating that your child's coverage with his Child Health Plus plan would end on January 31, 2017 because he was no longer eligible to enroll in Child Health Plus.

On May 16, 2017, you updated your household's application for financial assistance.

On May 17, 2017, NYSOH issued a notice of eligibility determination, based on your May 16, 2017 application, stating that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective July 1, 2017.

Also on May 17, 2017, NYSOH issued a notice of enrollment, based on your plan selection on May 16, 2017, stating that your child was enrolled in a Child Health Plus plan, and that his enrollment in the plan would start July 1, 2017.

On May 17, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin February 1, 2017.

On August 24, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for twenty-one days to allow you the opportunity to submit proof of the end date of your child's third-party health insurance. On August 25, 2017, the Appeals Unit received via fax a copy of your child's certificate of coverage. This document was marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your child's eligibility.

- 2) You testified that you had previously elected to receive all your notices from NYSOH by electronic mail. You testified that you changed this preference from electronic mail to regular mail in May 2017.
- 3) You testified that you have received e-mail alerts from NYSOH, but that you do not check your e-mail regularly. You went on to testify that you did not pay attention to the e-mail alerts from NYSOH as they directed you to sign on to your NYSOH account and you assumed that if it was something important, NYSOH would have sent you a paper notice.
- 4) You testified that you may have received e-mail alerts from NYSOH on or around December 22, 2016 advising you that you had new notices in your NYSOH account.
- 5) You also testified that your child's Child Health Plus plan sent you paper mail and that you were relying solely on the notices from your child's Child Health Plus plan. You testified that you never received a disenrollment notice from your child's Child Health Plus plan.
- 6) You testified that you are not sure if you continued to pay premiums to your child's Child Health Plus plan after your child had been disenrolled. You explained that your child's premiums were on autopay, and you are not sure if the Child Health Plus plan continued to deduct the premiums from your account.
- 7) You testified that your child last had coverage outside of NYSOH several years ago and that your child does not currently have coverage outside of NYSOH.
- 8) On August 25, 2017, you submitted a copy of a certificate of coverage which shows that your child had coverage outside of NYSOH from October 30, 2011 until February 28, 2014.
- 9) You testified that you learned that your child had been disenrolled from his Child Health Plus plan in May 2017 when you took your child to a doctor's appointment.
- 10) Your NYSOH account reflects that you reenrolled your child into a Child Health Plus plan on May 16, 2017.
- 11) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 12) On May 15, 2017, you contacted NYSOH to inquire as to why your child had been disenrolled from his Child Health Plus plan. The NYSOH representative read the basis for your and your spouse's eligibility for

advance premium tax credits to you. The NYSOH representative then asserted that your child was not eligible for Child Health Plus due to his income. You made further inquiry regarding your child's coverage and the representative placed you on hold to review your account further. After being left on hold for 5 minutes, the representative came back on the line and introduced himself as though he were answering a call from a new individual, you advised the representative that you had just been speaking to him, and then the call was disconnected.

13)The record reflects that you next contacted NYSOH on May 16, 2017.

14)You testified that you are seeking to have your child's Child Health Plus plan to begin on February 1, 2017 because you have outstanding medical bills for treatment he received and believe that your child should never have been disenrolled from his Child Health Plus plan.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Child Health Plus

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue is whether your appeal of NYSOH’s December 22, 2016 eligibility determination notice and December 22, 2016 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your child’s disenrollment from his Child Health Plus plan on May 17, 2017.

Individual applicants and enrollees must request a hearing within sixty (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 child’s disenrollment from his Child Health Plus plan, an appeal should have been filed by February 20, 2017. The record reflects that you filed your appeal on May 17, 2017, which is beyond the 60-day deadline.

You testified that you believe you may have received an e-mail alert from NYSOH on or around December 22, 2016 alerting you to new notices in your NYSOH account. You also testified that you did elect to receive electronic alerts

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from NYSOH and did receive e-mail alerts from NYSOH. However, you did not bother to log-in to your NYSOH account to review the notices as you assumed that any important notices would also be sent to you via regular mail, despite the fact that you had elected to receive e-mail alerts.

As the record reflects that NYSOH properly notified you that new notices had been uploaded to your NYSOH account, those being the December 22, 2016 eligibility determination and December 22, 2016 disenrollment notice, and you elected not to log-in to your NYSOH account to review the notices, and as your appeal was filed more than 60-days after the December 22, 2016 eligibility determination and December 22, 2016 disenrollment notice were issued, your appeal of these notices is untimely and is DISMISSED.

The second issue is whether NYSOH properly determined that your child's reenrollment in his Child Health Plus plan was effective July 1, 2017.

The record reflects that you first contacted NYSOH to reenroll your child into a Child Health Plus plan on May 15, 2017.

However, the NYSOH representative you spoke to on May 15, 2017 provided you with misinformation regarding the reason your child had been disenrolled from his Child Health Plus plan and disconnected the call before reenrolling your child into coverage. You contacted NYSOH again on May 16, 2017, at which time you child was determined eligible for Child Health Plus and enrolled into a Child Health Plus plan.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Had the NYSOH representative on May 15, 2017 provided you with proper assistance, your child could have been determined eligible for Child Health Plus that day and you would have been able to select a Child Health Plus plan for reenrollment as early as May 15, 2017.

Had you selected a Child Health Plus plan for reenrollment for your child on May 15, 2017, your child's Child Health Plus plan would have begun on the first day of the next month; that is, on June 1, 2017.

Therefore, the May 18, 2017 eligibility determination notice and May 18, 2017 enrollment confirmation notice are MODIFIED to reflect that your child's eligibility for and enrollment in his Child Health Plus plan was effective June 1, 2017.

Decision

Your appeal of the December 22, 2016 eligibility determination notice and December 22, 2016 disenrollment notice is **DISMISSED**.

The May 18, 2017 eligibility determination notice is **MODIFIED** to state that your child was eligible for Child Health Plus effective June 1, 2017.

The May 18, 2017 enrollment confirmation notice is **MODIFIED** to state that your child was enrolled in his Child Health Plus plan effective June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your child in his Child Health Plus plan as of June 1, 2017.

Effective Date of this Decision: September 20, 2017

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan as of June 1, 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

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 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

Your appeal of the December 22, 2016 eligibility determination notice and December 22, 2016 disenrollment notice is **DISMISSED**.

The May 18, 2017 eligibility determination notice is **MODIFIED** to state that your child was eligible for Child Health Plus effective June 1, 2017.

The May 18, 2017 enrollment confirmation notice is **MODIFIED** to state that your child was enrolled in his Child Health Plus plan effective June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your child in his Child Health Plus plan as of June 1, 2017.

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

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).

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 مجاناً.

বাংলা (Bengali)

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई 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. y&b&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.

שׂוֹדֵיִשׁ (Yiddish)

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).

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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