



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

Notice of Decision

Decision Date: September 01, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019144

[REDACTED]

Dear [REDACTED],

On August 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 16, 2017 eligibility determination and 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 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019144



Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review the termination of your children's Child Health Plus (CHP) coverage for nonpayment of premiums, effective April 30, 2017?

Did NYSOH properly determine that your children's eligibility for, and enrollment in, their CHP coverage began on June 1, 2017?

Procedural History

On December 6, 2016, you updated your NYSOH application for financial assistance and uploaded documentation to your NYSOH account.

On December 7, 2016, NYSOH issued a notice of eligibility determination, based on your December 6, 2016 application, stating that your children were eligible, for a limited time, to enroll in CHP with a \$60.00 monthly premium each, effective January 1, 2017. The notice further directed you to submit documentation of your household income by February 4, 2017.

Also on December 7, 2016, NYSOH issued a notice of enrollment, based on your plan selection on December 6, 2016, stating that your children were enrolled in a Fidelis CHP plan, and that their enrollment in the plan would start on January 1, 2017.

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On December 22, 2016, NYSOH issued a notice stating that the income documentation you submitted was not sufficient to confirm the information in your application. The notice directed you to submit income documentation by February 4, 2017.

On February 10, 2017, NYSOH reran your application for financial assistance.

On February 11, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a full price CHP plan or a full price child-only qualified health plan, effective March 1, 2017. This was because state and federal data sources showed that your household income was above \$97,200.00, the income limit for eligibility for CHP premium assistance. Finally, the notice stated that your children had been enrolled into a health plan offered by your current health insurance company (Fidelis).

Also on February 11, 2017, NYSOH issued a disenrollment notice, stating that your children's enrollment in their current CHP plan would end February 28, 2017. The notice also stated that they were enrolled in coverage, and no further action was necessary. The notice stated that you would receive written confirmation of your children's enrollment.

On February 13, 2017, you uploaded income documentation to your NYSOH account.

On February 18, 2017, NYSOH issued a notice stating that your children were enrolled in a Fidelis CHP plan, effective March 1, 2017, with a monthly premium of \$185.90, each. The notice stated that they were enrolled into that plan because it was similar to the coverage they had before with this insurance company.

On February 24, 2017, NYSOH reran your application for financial assistance, based on the income documentation you provided on February 13, 2017.

On February 25, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP, with a monthly premium of \$60.00 each, effective April 1, 2017.

Also on February 25, 2017, NYSOH issued a disenrollment notice, stating that your children's enrollment in their current CHP plan would end on March 31, 2017. The notice further stated that they were enrolled in coverage, and no further action was necessary.

That same day, NYSOH also issued a notice of enrollment confirmation, confirming your children's enrollment in a Fidelis CHP plan, beginning April 1, 2017, with a monthly premium of \$60.00 each. The notice further stated that your

children were enrolled into this plan because it was similar to the coverage they had before with this insurance company.

On May 3, 2017, NYSOH issued a notice of disenrollment, stating that your children were disenrolled from their CHP coverage, effective April 30, 2017, because you did not pay your premium by the payment deadline.

On May 15, 2017, you updated your NYSOH account.

On May 16, 2017, NYSOH issued a notice of eligibility determination, stating that your children were eligible to enroll in CHP with a monthly premium of \$60.00 each, effective June 1, 2017.

Also on May 16, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a Fidelis CHP plan, with a monthly premium of \$60.00 each, beginning June 1, 2017.

On May 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP coverage, insofar as it did not begin May 1, 2017.

On August 25, 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 support the following findings of fact:

- 1) You testified that you are appealing on behalf of your children only.
- 2) You submitted an application to NYSOH for financial assistance on December 6, 2016.
- 3) You testified that you recall being asked for income documentation for your children, but that when you called NYSOH about the request, you were told that you did not need to submit anything additional, as you had submitted documentation already for you and your spouse.
- 4) Your NYSOH account reflects that the December 7, 2016 eligibility determination stated that you needed to supply income documentation by February 4, 2017. The notice contained an attachment entitled, "Request for Additional Documentation – Documentation List," which states, in part, "If proof of income is requested for a child, please send in proof of income for parent/caretaker(s)."

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- 5) Your NYSOH account reflects that you receive notices from NYSOH by regular mail.
- 6) No notices issued to the mailing address in your NYSOH account have been returned to NYSOH as undeliverable.
- 7) Your NYSOH account reflects that you uploaded one of your biweekly paystubs to your NYSOH account on December 6, 2016.
- 8) Your NYSOH account reflects that you were sent a notice on December 22, 2016 stating that the income documentation you had provided was not sufficient, and that you needed to provide income documentation by February 4, 2017.
- 9) Your NYSOH account contains a note, entered by a NYSOH agent on December 21, 2016, stating, "Invalid proof of income. [REDACTED] submitted pay stub. Required documentation is four consecutive weeks of pay stubs."
- 10) You did not submit further income documentation until February 13, 2017, when you uploaded two biweekly paystubs for yourself, and two biweekly paystubs for your spouse.
- 11) You testified that you do not recall receiving the February 11, 2017 notice from NYSOH stating that your children were newly eligible for CHP at full cost, nor the February 18, 2017 notice stating that they were enrolled in CHP coverage at a cost of \$185.90 each, beginning March 1, 2017.
- 12) You testified that you were enrolled in automatic payments through Fidelis, and have been for a couple of years.
- 13) You testified that you are not sure whether the full premium payments were taken for the month of March 2017, but that you were under the impression that the autopay system would take whatever payment was needed.
- 14) You testified that, in April 2017, or earlier, you receive a notice from Fidelis stating that you had requested to disenroll your children from their CHP plan.
- 15) You testified that you immediately called Fidelis and were told that, because your premium amount changed, your children were being switched to a different plan, but that you did not need to worry, as there would be no gap in your coverage.
- 16) You testified that you asked Fidelis to send you something in writing to say that there would be no lapse in your children's coverage, but they refused.

- 17) You testified that you were not advised at that time that you owed any money or had any outstanding premium payments.
- 18) You testified that you called Fidelis again a couple of days later, and were again told that your children's coverage would continue with no gap.
- 19) You testified that, a couple of weeks later, your son [REDACTED], and you took him to the doctor, where you found out that his coverage was not active.
- 20) You testified that you called Fidelis and were told that your children's coverage was ended due to nonpayment of premiums.
- 21) You testified that you were told that the issue was related to some kind of computer glitch on the part of Fidelis, and that Fidelis acknowledged the problem, but said there was nothing that they could do, and advised you to call NYSOH.
- 22) You testified that you called NYSOH and were then told that your children would have coverage for May 1, 2017 if you re-enrolled them and paid the premium by May 15, 2017, but you later found out that this was not correct.
- 23) You testified that your children had a gap in coverage for the month of May 2017, and you had to pay two medical bills out of pocket for that month.
- 24) You testified that Fidelis retained the payment you made for May 2017, and applied it to your June 2017 premium.
- 25) You testified that you are not being billed by Fidelis for any past due amounts at this point.
- 26) The record reflects that you re-enrolled your children into CHP coverage on May 15, 2017.

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

Applicable Law and Regulations

Appealable Issues

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) a failure by NYSOH to provide timely notice of an

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eligibility determination 45 CFR § 155.505; and (4) 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)).

Child Health Plus

The “period of eligibility” for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 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 e.g. 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 the Appeals Unit of NYSOH has the authority to review the termination of your children’s CHP coverage for nonpayment of premiums, effective April 30, 2017.

On December 6, 2016, your children were enrolled into a Fidelis CHP plan with a monthly premium of \$60.00, beginning January 1, 2017. You testified that you were enrolled in automatic payments through Fidelis, and that you are not aware of owing any premium payments for your child.

However, you were advised in both the December 7, 2016 eligibility determination and December 22, 2016 notice of insufficient documentation, and that you needed to submit income documentation to confirm your children’s eligibility by February 4, 2017. Since neither of these notices was returned to NYSOH as undeliverable, you knew, or should have known, that you were required to submit household income documentation by February 4, 2017 to

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confirm your children's eligibility. Because adequate documentation was not received by February 4, 2017, your children's premiums were no longer subsidized and went up for the month of March 2017. During the hearing, you were unable to confirm whether those full premium payments were made for the month of March 2017, as you were not sure how much money the automatic payment system deducted for that month.

You testified that you called Fidelis in April to ask about a disenrollment letter you received from them, and were told that there was a change in your premiums, but were not asked to make any additional payments at that time. You also testified that you were told by Fidelis that there was a computer glitch or error that caused some problems with your account when your children were disenrolled and re-enrolled.

On May 3, 2017, NYSOH issued a notice stating that your children were disenrolled from their CHP plan, effective April 30, 2017, for nonpayment of premium by the payment deadline.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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) a failure to provide timely notice of an eligibility determination, and (4) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your children's CHP coverage was properly terminated for non-payment of premiums by the payment deadline. Therefore, your appeal of the May 3, 2017 cancellation notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your children's eligibility for, and enrollment in, their CHP plan began on June 1, 2017.

You testified that you contacted NYSOH on May 15, 2017 and re-enrolled enrolled your children into a CHP plan, and your NYSOH account confirms this.

The date on which a CHP 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.

Therefore, the May 16, 2017 eligibility determination and enrollment confirmation notices stating that your children were eligible for, and enrolled in, a CHP plan effective June 1, 2017, are correct and must be AFFIRMED.

However, during the hearing you testified that Fidelis acknowledged that your children's disenrollment from their coverage was partially caused by a computer glitch or error on the part of Fidelis. Therefore, your case is RETURNED to Plan Management to reach out to Fidelis and investigate whether a system error on the part of Fidelis caused your children's disenrollment from their coverage for the month of May 2017.

Decision

The May 16, 2017 eligibility determination notice is AFFIRMED.

The May 16, 2017 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to Plan Management to conduct outreach to Fidelis and determine whether your children's disenrollment from their coverage for the month of May 2017 was attributable to a system/technical error on the part of Fidelis.

Effective Date of this Decision: September 01, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The effective date of your children's CHP plan coverage was June 1, 2017.

Your case is being sent back to Plan Management to investigate whether technical or system errors on the part of Fidelis caused your children to have a gap in coverage 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

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

Summary

The May 16, 2017 eligibility determination notice is **AFFIRMED**.

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The May 16, 2017 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to Plan Management to conduct outreach to Fidelis and determine whether your children's disenrollment from their coverage for the month of May 2017 was attributable to a system/technical error on the part of Fidelis.

This decision does not change your children's eligibility.

The effective date of your children's CHP plan coverage was June 1, 2017.

Your case is being sent back to Plan Management to investigate whether technical or system errors on the part of Fidelis caused your children to have a gap in coverage for the month of May 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 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.

שׂוֹדִיִּשׁ (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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