



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

Notice of Decision

Decision Date: September 19, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019292

[REDACTED]

Dear [REDACTED],

On August 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s April 17, 2017 eligibility determination and disenrollment notices, April 21, 2017 eligibility determination notices and the April 21, 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 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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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 the eligibility for and enrollment in your Essential Plan by you and your spouse was effective June 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 April 30, 2017?

Procedural History

On April 11, 2016, NYSOH received your application for financial assistance with health insurance.

On April 12, 2016, NYSOH issued an eligibility determination notice, based on the information contained in the April 11, 2016 application, stating that you and your spouse were eligible to enroll in the Essential Plan, effective May 1, 2016. The notice also stated that your children were each eligible to enroll in Child Health Plus (CHP) for a cost of \$9.00 per month, effective May 1, 2016. You, your spouse and your four children each enrolled within their respective health plans on that same date.

On March 3, 2017, NYSOH issued a notice that it was time to renew your household's health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not

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determine whether your household would qualify for financial help paying for your health coverage, and that you needed to update your account by April 15, 2017 or your family might lose the financial assistance that was currently being received.

No updates were received by April 15, 2017 and NYSOH redetermined your eligibility for financial assistance with health insurance.

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

Also on April 17, 2017, NYSOH issued a separate eligibility determination notice stating that 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.

Finally, on April 17, 2017, NYSOH issued a disenrollment notice stating that you and your spouse's enrollment in your Essential Plan was terminated, effective April 30, 2017. The notice also stated that your children's enrollment in their CHP plan was terminated effective April 30, 2017.

On April 20, 2017, you updated your application for financial assistance with health insurance through NYSOH.

On April 21, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan for a limited time, effective June 1, 2017. The notice also stated that your children were eligible to enroll in CHP for a limited time, effective June 1, 2017. You were requested to provide income documentation by June 19, 2017 to confirm your eligibility.

Also on April 21, 2017, NYSOH issued an enrollment notice confirming your selection of your Essential Plan for you and your spouse, and your selection of a CHP plan for your children, each with a plan enrollment start date of June 1, 2017.

On May 25, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your household's enrollment in the Essential Plan and CHP insofar as it did not begin on May 1, 2017.

On August 29, 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.

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Findings of Fact

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

- 1) You and your spouse were determined eligible for the Essential Plan on April 11, 2016, with an effective date of May 1, 2016. Your children were determined eligible for CHP on April 11, 2016, with an effective date of May 1, 2016.
- 2) You testified that you receive your notices from NYSOH by regular mail.
- 3) You testified that you did not receive any notices in the mail telling you that you needed to update your application to renew the Essential Plan eligibility for you and your spouse, or your children's eligibility for Child Health Plus.
- 4) No notices sent to you at the mailing address listed on your NYSOH account have been returned as undeliverable.
- 5) You testified that you did not know that you needed to update your account until you had received the termination notice issued by NYSOH on April 17, 2017 stating that your household's coverage would be ending effective April 30, 2017.
- 6) The record reflects that on April 20, 2017 NYSOH received your updated application for health insurance.
- 7) You reenrolled yourself and your spouse into an Essential Plan and reenrolled your children into their CHP plan on April 20, 2017.
- 8) You testified that you are seeking to have coverage for your household reinstated as of May 1, 2017, in your respective health plans.

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

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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;

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- 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 the eligibility for and enrollment in the Essential Plan for you and your spouse was effective June 1, 2017.

You and your spouse were originally found eligible for the Essential Plan effective May 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 March 3, 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 April 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 April 30, 2017

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account. You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. However, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

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

The record shows that on April 20, 2017 you updated the information in your NYSOH account and submitted a request to reenroll both you and your spouse 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 Essential Plan on April 20, 2017, it must take effect on the first day of the following after April 2017; that is, on 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).

Therefore, the April 17, 2017 eligibility determination and disenrollment notices are AFFIRMED to the extent that the Essential Plan coverage for you and your spouse ended effective April 30, 2017.

The April 21, 2017 eligibility determination and enrollment notice are AFFIRMED to the extent that the Essential Plan coverage for you and your spouse resumed effective June 1, 2017.

The second issue is whether NYSOH provided you proper and adequate notice that your children's eligibility for and enrollment in CHP terminated as of April 30, 2017.

Your children were originally found eligible for CHP and enrolled effective May 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 March 3, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by April 15, 2017 or the financial assistance your children were receiving may end.

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

On April 17, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their CHP plan would end effective April 30, 2017. According to the eligibility determination notice issued on April 17, 2017, this was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The March 3, 2017 renewal notice does not indicate that your children's CHP plan enrollment would be terminated if you failed to respond. You were first informed that your children's coverage through their CHP plan would end in the April 17, 2017 eligibility determination notice and April 17, 2017 disenrollment notice.

The record indicates that on April 20, 2017 you updated your NYSOH account and submitted an updated application for your children. You testified that you updated the account as soon as you received the notice that your children had been disenrolled from coverage.

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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 Child Health Plus eligibility after the 15th of the month, 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 children for the month of May 2017 and the April 17, 2016 eligibility determination and disenrollment notices are RESCINDED to the extent that your children were improperly disenrolled from their CHP plan, effective April 30, 2017.

Your case is RETURNED to NYSOH to reinstate your children's CHP plan coverage during the month of May 2017.

Decision

The April 17, 2017 eligibility determination and disenrollment notices are (1) AFFIRMED to the extent that the Essential Plan coverage for you and your spouse ended, effective April 30, 2017, and (2) RESCINDED to the extent that your children were improperly disenrolled from their CHP plan, effective April 30, 2017.

The April 21, 2017 eligibility determination and enrollment notice are AFFIRMED to the extent that the Essential Plan coverage for you and your spouse resumed, effective June 1, 2017.

Your case is RETURNED to NYSOH to reinstate your children's CHP plan coverage during the month of May 2017.

Effective Date of this Decision: September 19, 2017

How this Decision Affects Your Eligibility

The Essential Plan coverage for you and your spouse ended effective April 30, 2017, and resumed effective June 1, 2017.

Your children's CHP plan coverage is reinstated 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
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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The April 17, 2017 eligibility determination and disenrollment notices are (1) **AFFIRMED** to the extent that the Essential Plan coverage for you and your spouse ended, effective April 30, 2017, and (2) **RESCINDED** to the extent that your children were improperly disenrolled from their CHP plan, effective April 30, 2017.

The April 21, 2017 eligibility determination and enrollment notice are **AFFIRMED** to the extent that the Essential Plan coverage for you and your spouse resumed, effective June 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your children's CHP plan coverage during the month of May 2017.

The Essential Plan coverage for you and your spouse ended effective April 30, 2017, and resumed effective June 1, 2017.

Your children's CHP plan coverage is reinstated 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 مجانًا.

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 नि:शुल्क 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 नि:शुल्क 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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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