



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

Notice of Decision

Decision Date: October 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019469 and AP000000020796

[REDACTED]

Dear [REDACTED],

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s June 2, 2017 plan 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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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019469 and AP000000020796

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus terminated as of March 31, 2017?

Did NYSOH properly determine that your children's eligibility for and re-enrollment in a Child Health Plus plan was effective July 1, 2017?

Procedural History

On October 23, 2015, NY State of Health (NYSOH) issued an eligibility determination renewal notice, on your original account ([REDACTED]), stating in part that based on state and federal data sources your children were eligible for Child Health Plus with a \$9.00 a month premium each, effective January 1, 2016. Your children were subsequently enrolled in a Child Health Plus plan.

On October 13, 2016, NYSOH issued a notice that it was time to renew your children's health insurance for 2017. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage. The notice further informed you that you needed to update your account by December 15, 2016 or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by December 15, 2016.

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On March 19, 2017, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance, and could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your children's renewal within the required time frame. Your children's eligibility ended April 1, 2017.

Also on March 19, 2017, NYSOH issued a disenrollment notice stating that your children's coverage through their Child Health Plus plan would end March 31, 2017, because they were no longer eligible to enroll in health insurance through NYSOH.

On June 1, 2017, you initiated a new account ([REDACTED]) with NYSOH and submitted an application for financial assistance for your children. That day, a preliminary eligibility determination was prepared stating that your children were eligible for Child Health Plus with a \$30.00 monthly premium each. No eligibility determination notice was issued.

Also on June 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as they did not have coverage for the months of April 2017, May 2017, and June 2017. Your appeal request was assigned an appeal number of AP000000019469.

On June 2, 2017, NYSOH issued a plan enrollment confirmation notice, based on your plan selection on June 1, 2017, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on July 1, 2017.

On July 24, 2017, you renewed your appeal request as it related to your oldest child, which was assigned an appeal number of AP000000020796.

On August 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your original NYSOH account ([REDACTED]) and your testimony, you receive all of your notices from NYSOH by regular mail on this account.

- 2) You testified that you did not receive any notices by regular mail stating that you that you needed to update your children's application prior to December 15, 2016 in order to renew their coverage.
- 3) According to your NYSOH account ([REDACTED]), no notices mailed to you have been returned to NYSOH by the post office as undeliverable.
- 4) The October 13, 2016 renewal notice does not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond. The notice does state that your children's financial eligibility may end.
- 5) You testified that you did not know that you needed to update your account until [REDACTED], when your oldest child [REDACTED] and you took her to the doctor. At the doctor's office, you were informed that your children's health insurance had lapsed on March 31, 2017.
- 6) According to your NYSOH account and your testimony, on June 1, 2017, you contacted NYSOH and initiated a new account ([REDACTED]). On that date, you spoke with a NYSOH customer service representative and submitted an updated application for financial assistance for your children.
- 7) According to your new NYSOH account ([REDACTED]), on June 1, 2017, you selected a Child Health Plus plan for your children.
- 8) You testified that the mailing address in both your NYSOH accounts is correct, has not changed, and you have resided there for many years.
- 9) You testified that you are seeking to have your children be enrolled in their Child Health Plus plan as of May 1, 2017 because your oldest child had an injury on [REDACTED] that required medical treatment.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an

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eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

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;
- 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

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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 provided you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus terminated as of March 31, 2017.

Your children were originally found eligible for Child Health Plus and enrolled in a plan effective January 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus 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 October 13, 2016 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice informed you to update the information in your account by December 15, 2016 or the financial assistance your children were receiving might end.

No updates were made to your NYSOH account prior to December 15, 2016.

You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account on your children's behalf. You testified, and your original NYSOH account [REDACTED] confirms, that you elected to receive notifications via regular mail. However, there is no evidence in the record of any of the notices that were sent to your mailing address were returned as undeliverable. You testified that your mailing address in your account is correct, has not changed, and that you have resided there for many years.

Therefore, the record reflects that NYSOH properly notified you of your children's annual renewal and that information in your NYSOH account needed to be updated in order to ensure your children's enrollment in their Child Health Plus plan and eligibility for financial assistance would continue.

Since there was no timely response to this notice, your children were terminated from their Child Health Plus plan effective March 31, 2017.

As to the March 19, 2017 disenrollment notice, it stated that your children's coverage in their Child Health Plus plan would end effective March 31, 2017. According to the eligibility determination issued on March 19, 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 Child Health Plus 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 October 13, 2016 renewal notice does not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your children's coverage through their Child Health Plus plan would end in the March 19, 2017 eligibility determination and disenrollment notices.

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 NYSOH issued the eligibility determination and the disenrollment notices on March 19, 2017, any changes in your children's eligibility should not have been effective until May 1, 2017.

Therefore, NYSOH's March 19, 2017 eligibility determination notice is MODIFIED to state that effective May 1, 2017 your children were no longer eligible for health insurance through NYSOH. The March 19, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their Child Health Plus plan ended on April 30, 2017.

You testified that you need to have your children's Child Health Plus coverage for the month of May 2017 because of medical treatment your one child required on [REDACTED]. As this decision indicates, your children's coverage should not have been terminated until April 30, 2017, and as the record is devoid of an indication of the need for coverage in the month of April 2017, you are given the option to have your children's Child Health Plus coverage extend to April 30, 2017. If you so choose, you will be responsible for any premiums due for the month of April 2017.

To this end, your case is RETURNED to NYSOH to, at your option, reinstate your children into their Child Health Plus for the month of April 2017. NYSOH is directed to contact you to see if you want this change effectuated.

The second issue under review is whether NYSOH properly determined that your child's re-enrollment in a Child Health Plus plan was effective July 1, 2017.

The record reflects that you first learned your children did not have health insurance on [REDACTED] when one of them had an injury and was taken to the doctor for medical treatment. At the doctor's office, you were informed the children's health insurance had lapsed on March 31, 2017. By this decision giving you the option to modifying your children's Child Health Plus date to April 30, 2017, your children would still not be covered by health insurance for the month of May 2017.

According to your NYSOH account and your testimony, on June 1, 2017 you contacted NYSOH and initiated a new account ([REDACTED]). On that date, you submitted an application for financial assistance for your children and they were found eligible for Child Health Plus. You enrolled your children in a plan that same day. On June 2, 2017, NYSOH issued a plan enrollment notice stating that your children were enrolled in a Child Health Plus plan with a \$30.00 monthly premium each and an enrollment start date of July 1, 2017.

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 between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Since you selected your children's Child Health Plus plan on June 1, 2017, their coverage in that plan properly took effect the first day of the month following June 2017; that is, on July 1, 2017.

Therefore, NYSOH's June 2, 2017 plan enrollment notice is AFFIRMED because it properly began your children's enrollment in a Child Health Plus plan on July 1, 2017.

Decision

NYSOH's March 19, 2017 eligibility determination notice is MODIFIED to state that effective May 1, 2017 your children were no longer eligible for health insurance through NYSOH.

The March 19, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their Child Health Plus plan will end on April 30, 2017.

Your case is RETURNED to NYSOH to, at your option, reinstate your children into their Child Health Plus for the month of April 2017. NYSOH is directed to contact you to see if you want this change effectuated.

The June 2, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: October 2, 2017

How this Decision Affects Your Eligibility

Your children should not have been terminated from their Child Health Plus plan in April 2017 because NYSOH failed to issue proper and adequate notice.

Your case is being sent back to NYSOH to, at your option, reinstate your children into their Child Health Plus for the month of April 2017. NYSOH will contact you regarding your choice.

If you choose to have your children's coverage reinstated for the month of April 2017, you will be responsible for any premiums due for that month.

The effective date of your children's re-enrollment in a Child Health Plus plan is July 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.

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).

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):

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- 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

NYSOH's March 19, 2017 eligibility determination notice is MODIFIED to state that effective May 1, 2017 your children were no longer eligible for health insurance through NYSOH.

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The March 19, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their Child Health Plus plan will end on April 30, 2017.

Your case is RETURNED to NYSOH to, at your option, reinstate your children into their Child Health Plus for the month of April 2017. NYSOH is directed to contact you to see if you want this change effectuated.

The June 2, 2017 plan enrollment notice is AFFIRMED.

Your children should not have been terminated from their Child Health Plus plan in April 2017 because NYSOH failed to issue proper and adequate notice.

Your case is being sent back to NYSOH to, at your option, reinstate your children into their Child Health Plus for the month of April 2017. NYSOH will contact you regarding your choice.

If you choose to have your children's coverage reinstated for the month of April 2017, you will be responsible for any premiums due for that month.

The effective date of your children's re-enrollment in a Child Health Plus plan is July 1, 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 निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

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

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye bɛtumi ama wo obi a okyerɛ kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

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

Tiếng Việt (Vietnamese)

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

אידיש (Yiddish)

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

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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