



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

Notice of Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020101

[REDACTED]

[REDACTED],

On September 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 9, 2017 disenrollment notice.

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

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

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

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: November 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020101

[REDACTED]

Issue

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

Did NY State of Health properly disenroll your youngest child from her Independent Health Child Health Plus plan as of April 30, 2017?

Procedural History

On March 29, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your March 28, 2017 application, stating that your youngest child was eligible to enroll in Child Health Plus, for a limited time, with a \$15.00 monthly premium, effective March 1, 2017

Also on March 29, 2017, NYSOH issued a notice of enrollment confirmation, stating that your youngest child was enrolled in a Fidelis Child Health Plus plan, and that this enrollment in the plan would start March 1, 2017.

On March 31, 2017, NYSOH issued a notice of disenrollment, stating that your youngest child's enrollment in a Fidelis Child Health Plus plan would end on April 30, 2017, because you asked for coverage to end.

Also on March 31, 2017, NYSOH issued a notice of enrollment confirmation, stating that your youngest child was enrolled in an Independent Health Child Health Plus plan, effective May 1, 2017.

On May 8, 2017, you submitted an updated application for financial assistance with health insurance, specifically you lowered the amount of income your household expects to earn.

On May 9, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal data sources. You were directed to provide proof of current household income for your youngest child by May 23, 2017.

Also on May 9, 2017, NYSOH issued a disenrollment notice, stating that your youngest child's coverage with Independent Health Child Health Plus would end on May 31, 2017, because she was no longer eligible to enroll.

On May 19, 2017, and May 22, 2017, NYSOH received income documentation from you.

Also on May 22, 2017, an application for health insurance was made on your behalf based on the income documentation NYSOH received, specifically the amount of income your household expects to earn increased.

On May 23, 2017, NYSOH issued an eligibility determination notice, stating that your youngest child was eligible for Child Health Plus with a \$15.00 monthly premium, effective July 1, 2017.

Also on May 23, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest child was enrolled in a Child Health Plus plan, effective July 1, 2017.

On June 28, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest child was enrolled in a Child Health Plus plan, effective June 1, 2017.

Also on June 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child Health Plus plan insofar as it did not begin May 1, 2017.

On September 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open up to October 11, 2017, to allow you time to submit supporting documentation.

On September 29, 2017, you faxed the requested documentation, and it was entered into the record as Appellant's Exhibit #1. The record was closed at the end of business that day.

Findings of Fact

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

- 1) You testified that you are appealing only your youngest child's eligibility, insofar as she did not have coverage in May 2017.
- 2) You submitted an application to NYSOH for financial assistance on March 28, 2017.
- 3) You testified, and the record reflects, that you enrolled your youngest child into a Child Health Plus plan on March 28, 2017, then switched to a new health plan on March 30, 2017. That coverage was effective May 1, 2017.
- 4) You submitted an updated application on May 8, 2017. Specifically, you requested that your eligibility be determined using your household's current monthly income of \$2,600.00.
- 5) As a result of your May 8, 2017 application, your youngest child was put into a pending documentation for Medicaid status and disenrolled from her Child Health Plus plan.
- 6) On May 22, 2017, you submitted income documentation, which was verified the same day. As a result of the redetermination, your youngest child was determined eligible for Child Health Plus, effective July 1, 2017, and enrolled in a Child Health Plus plan with a July 1, 2017 start date.
- 7) Her enrollment was subsequently backdated to June 1, 2017.
- 8) You submitted a letter dated May 4, 2017 from Fidelis that states that your child's disenrollment had been processed and was effective May 1, 2017.
- 9) The record reflects that your youngest child has no Child Health Plus coverage for May 2017.
- 10) According to your NYSOH account, your child's Child Health Plus plan initiated termination of the plan on May 16, 2017.
- 11) On May 30, 2017, you filed a complaint with NYSOH [REDACTED] which stated you had paid premiums to Fidelis for months when your child did not have coverage and you were seeking reimbursement. According to a note entered into the complaint you stated that you sent premium payments to Fidelis and not to Independent Health. You sent a premium to Independent Health for July 2017.

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

Applicable Law and Regulations

Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

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)).

Effective September 1, 2017, if a child appears Medicaid eligible, health plans will no longer enroll them in a Child Health Plus plan on a temporary basis (see CHP State Plan (CSP) approved July 16, 2010 and effective October 1, 2009, State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014)

“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)).

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

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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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Medicaid for Children

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which was \$28,780.00 for a five-person household ((82 Fed. Reg. 8831).

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 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)).

Legal Analysis

The issue is whether NYSOH properly disenrolled your youngest child from her Independent Health Child Health Plus plan as of April 30, 2017.

On March 29, 2017, NYSOH issued a notice of eligibility determination stating that your youngest child was eligible for Child Health Plus for a limited time, effective March 1, 2017.

You enrolled your youngest child into a Fidelis Care Child Health Plus plan on March 28, 2017, then switched to a new health plan through Independent Health. On March 31, 2017, NYSOH issued a notice of enrollment confirmation, stating that your youngest child was enrolled in an Independent Health Child Health Plus plan, effective May 1, 2017.

On May 8, 2017, you updated your household's application for financial assistance. Specifically, you updated the income information in your application.

This resulted in your youngest child being placed in a pending documentation for Medicaid status and disenrolled from her Child Health Plus plan. The May 9, 2017 disenrollment notice states that your youngest child's Child Health Plus plan would end on May 31, 2017.

According to the record, you expect to file your tax return as married filing jointly and will claim two dependents on that tax return. Therefore, your child is in a four-person household.

On your May 8, 2017, you requested that your eligibility be determined using a currently monthly income of \$2,600.00.

Medicaid can be provided through NYSOH to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Therefore, based on the income information in your May 8, 2017 application, it appeared as though your youngest child was eligible for Medicaid pending confirmation of the income amount you had attested to.

As of September 1, 2007, children who appear eligible for Medicaid are no longer eligible to enroll in Child Health Plus on a temporary basis. 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. When changes are made to an individual's application up to the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next month.

Therefore, NYSOH properly disenrolled your youngest child from her Child Health Plus plan, effective May 31, 2017, and the May 9, 2017 disenrollment notice is AFFIRMED.

During the hearing, you testified that your youngest child does not have Child Health Plus coverage for the month of May 2017. Since the disenrollment notice stated that your child should have coverage until May 31, 2017, your case would typically be returned to ensure coverage for that month. However, your NYSOH account indicates that your child's Child Health Plus plan initiated termination of the plan on May 16, 2017, which is after the date of the disenrollment notice. According to a note entered into a complaint you filed, you stated that you sent premium payments to Fidelis and not to Independent Health, the plan your child should have had for the month of May 2017. Therefore, the record indicates that your child may have been terminated for the month of May 2017 due to non-payment of premiums. Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, your case is RETURNED to NYSOH to confirm that a premium payment was properly made to your child's Independent Health Child Health Plus plan for the month of May 2017 and if so, your child should be reinstated in that plan for the month of May 2017 in accordance with the May 9, 2017 disenrollment notice which gave her coverage until May 31, 2017.

Decision

The May 9, 2017 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to confirm that a premium payment was properly made to your child's Independent Health Child Health Plus plan for the month of May 2017 and if so, your child should be reinstated in that plan for the month of May 2017 in accordance with the May 9, 2017 disenrollment notice which gave her coverage until May 31, 2017.

Effective Date of this Decision: November 10, 2017

How this Decision Affects Your Eligibility

Your child's disenrollment from her Child Health Plus plan was proper and should have been effective as of May 31, 2017.

Your case is being sent back to NYSOH to ensure that a premium payment was properly made by you for May coverage, and if so your child will be reinstated.

If You Disagree with this Decision (Appeal Rights)

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).

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
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The May 9, 2017 disenrollment notice is AFFIRMED.

Your child's disenrollment from her Child Health Plus plan was proper and should have been effective May 31, 2017.

The May 9, 2017 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to confirm that a premium payment was properly made to your child's Independent Health Child Health Plus plan for the month of May 2017 and if so, your child should be reinstated in that plan for the month of May 2017 in accordance with the May 9, 2017 disenrollment notice which gave her coverage until May 31, 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)

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।

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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. ye&btumi ama wo obi a okyer& 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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