



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

Notice of Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021005

[REDACTED]

[REDACTED]

On October 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's disenrollment of your children as of July 1, 2017 and the June 21, 2017 enrollment confirmation 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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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 your youngest three children's enrollment in Child Health Plus terminated effective July 1, 2017?

Did the NYSOH properly determine that your youngest three children's enrollment in their Child Health Plus plan was effective August 1, 2017?

Procedural History

On June 7, 2016, NYSOH issued an eligibility determination notice stating that your youngest three children were eligible for Child Health Plus, effective July 1, 2016.

Also on June 7, 2016, NYSOH issued an enrollment confirmation notice, stating that your youngest three children were enrolled in a Child Health Plus plan, effective July 1, 2016.

On October 20, 2016, NYSOH issued a renewal notices stating that no action was needed for your youngest three children's coverage and that their current coverage would end on June 30, 2017. You were advised that you would get a notice about renewing your children's coverage in May 2017.

On November 30, 2016, NYSOH issued a notice of eligibility determination, based on your November 29, 2016 application, stating that your youngest three

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children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium, effective January 1, 2017.

Also on November 30, 2016, NYSOH issued a notice of enrollment, stating that your youngest three children were enrolled in a Child Health Plus plan, effective July 1, 2016.

On April 5, 2017, NYSOH issued a disenrollment notice, stating that your youngest three children's Child Health Plus coverage would end on March 31, 2017, because you did not pay your insurance bill by the payment deadline.

Also on April 5, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest three children were enrolled in a Child Health Plus plan, effective May 1, 2017.

On May 21, 2017, an application for financial assistance was run on your behalf, specifically the amount of household income you expect to receive was increased.

On May 22, 2017, NYSOH issued an eligibility determination notice, stating that your youngest three children were eligible for Child Health Plus, and that you can enroll them in a full price Child Health Plus plan or a Child-only qualified health plan, effective July 1, 2017.

Also on May 22, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest three children were enrolled in a Child Health Plus plan, with a \$192.39 per month premium, per child, effective July 1, 2017.

On June 20, 2017, you submitted an updated application for financial assistance with health insurance, specifically the amount of income your household expects to receive decreased.

On June 21, 2017, NYSOH issued an eligibility determination, stating that your youngest three children were eligible for Child Health Plus with a \$60.00 per month premium, effective August 1, 2017.

Also on June 21, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest three children were enrolled in a Child Health Plus plan, effective August 1, 2017.

On July 14, 2017, you submitted an updated application for financial assistance with health insurance, specifically the amount of income your household expects to receive decreased.

On July 15, 2017, NYSOH issued an eligibility determination notice, stating that your youngest three children were eligible for Child Health Plus with a \$45.00 per month premium, per child, effective August 1, 2017.

Also on July 15, 2017, NYSOH issued an enrollment confirmation notice, stating that your youngest three children were enrolled in a Child Health Plus plan, effective August 1, 2017.

On July 31, 2017, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest three children Child Health Plus plan insofar as they did not have coverage in the month of July 2017.

On October 13, 2017, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested additional time to review documentation and the Hearing Officer agreed to adjourn your hearing.

On October 27, 2017, you had an adjourned 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) You testified that you are appealing only your youngest three children's Child Health Plus enrollment.
- 2) The record reflects that your youngest three children were enrolled into a Child Health Plus plan on July 1, 2016.
- 3) Applications were subsequently run on November 29, 2016 and May 21, 2017.
- 4) You testified that you received the May 22, 2017 notices, but were not aware that the premium had increased for your youngest three children, effective July 1, 2017. You further testified that had you known about the premium increase, you would have paid the full amount.
- 5) The record reflects that on July 21, 2017, there was a plan initiated termination due non-payment to issuer. A corresponding notice was not issued.
- 6) The record reflects that your youngest three children did not have Child Health Plus coverage for the month of July 2017.

- 7) You testified that you need your youngest three children's Child Health Plus plan to begin on July 1, 2017 because you have outstanding bills for medical services rendered that month.

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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) (New York Public Health Law (PHL) § 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

(N.Y. Pub. 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

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as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

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

Legal Analysis

The issue is whether NYSOH properly disenrolled your three youngest children from their Child Health Plus plan, effective July 1, 2017.

You testified that you are appealing the disenrollment of your youngest three children from their Child Health Plus plan for July 2017. However, the record does not contain a disenrollment notice stating that they were disenrolled from their Child Health Plus plan effective July 1, 2017.

Here, the lack of a disenrollment notice on the issue of disenrollment does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination.

Your credible testimony along with the August 1, 2017 appeal confirmation notice stating that the reason for your appeal was “failure of the exchange to provide timely notice of eligibility determination”, permits an inference that NYSOH did disenroll your youngest three children.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

On November 30, 2016, NYSOH issued a notice of eligibility determination, based on your November 29, 2016 application, stating that your youngest three children were eligible to enroll in Child Health Plus with a \$60.00 monthly premium, effective January 1, 2017.

Also on November 30, 2016, NYSOH issued an enrollment confirmation notice, confirming that your youngest three children were enrolled in a Child Health Plus plan as of July 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. Therefore, on May 21, 2017, an application for financial assistance was run on your behalf. This resulted in the May 22, 2017 notices stating that your youngest three children were determined eligible for Child Health Plus at full cost, and were enrolled into a full cost Child Health Plus plan, effective July 1, 2017.

You testified that although you received the May 22, 2017 notices, you were not aware that the premium had increased from \$60.00 per month to \$192.39 per month, per child. You further testified that had you known about the premium increase, you would have paid the full amount.

The record reflects that on July 21, 2017, there was a plan initiated termination due to non-payment to issuer. A corresponding notice was not issued, and it is not clear from the record if that termination was for your youngest three children. However, you testified, and the record confirms, that your youngest three children did not have Child Health Plus coverage in July 2017.

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.

Here, NYSOH did not issue a disenrollment notice for your youngest three children for July 2017. Typically, your case would therefore be returned for a reinstatement of benefits. However, you testified that you did not pay the full cost Child Health Plus premiums for July 2017, and it is not clear from the record if your youngest three children were in fact disenrolled 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 youngest three children's Child Health Plus plan for July 2017. If so, your youngest three children should be reinstated into their plan for the month of July 2017, as stated in the May 22, 2017 enrollment confirmation notice.

The second issue is whether NYSOH properly determined that your youngest three children's enrollment in their Child Health Plus plan was effective August 1, 2017.

You testified that you contacted NYSOH on June 20, 2017 and re-enrolled your youngest three children into a Child Health Plus plan.

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

Since you reenrolled your children on June 20, 2017, their enrollment would take effect on the first day of the second following month after June; that is on August 1, 2017.

Therefore, the June 21, 2017 enrollment confirmation notice stating that your youngest three children's enrollment in their Child Health Plus plan was effective August 1, 2017, is correct and must be AFFIRMED.

Decision

Your case is RETURNED to NYSOH to confirm that a premium payment was properly made to your youngest three children's Child Health Plus plan for July 2017. If so, your youngest three children should be reinstated into their plan for the month of July 2017, as stated in the May 22, 2017 enrollment confirmation notice.

The June 21, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 12, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to determine if a premium payment was properly made by you for July 2017 coverage, and if so, your three youngest children will be reinstated.

The effective date of your youngest three children's Child Health Plus plan was August 1, 2017.

If You Disagree with this Decision (Appeal Rights)

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

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

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

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

- 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 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).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

Your case is RETURNED to NYSOH to confirm that a premium payment was properly made to your youngest three children's Child Health Plus plan for July 2017. If so, your youngest three children should be reinstated into their plan for the month of July 2017, as stated in the May 22, 2017 enrollment confirmation notice.

The June 21, 2017 enrollment confirmation notice is AFFIRMED.

The effective date of your youngest three children's Child Health Plus plan was August 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 okyerε 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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