



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

Notice of Decision

Decision Date: December 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021109

[REDACTED]

Dear [REDACTED] [REDACTED]

On December 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 8, 2017 disenrollment notice, July 25, 2017 enrollment confirmation notice, September 26, 2017 disenrollment notice, the November 17, 2017 eligibility determination notice, and the November 17, 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 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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Decision Date: December 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021109



Issues

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

Did NY State of Health (NYSOH) properly terminate your child's Child Health Plus plan for non-payment of premium effective, May 31, 2017 and thereafter on September 1, 2017?

Did NYSOH properly determine that your child's reenrollment in her Child Health Plus plan was effective September 1, 2017?

Did NYSOH properly determine that your child's reenrollment in her Child Health Plus plan was effective January 1, 2018?

Procedural History

On March 3, 2017, NYSOH issued a notice of eligibility determination, based on your March 2, 2017 application, stating that your child was eligible for Child Health Plus effective April 1, 2017.

Also on March 3, 2017, NYSOH issued a notice of enrollment, stating that your child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start April 1, 2017.

On June 8, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan was terminated, effective May 31, 2017, because a premium payment had not been received by the health plan.

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On July 24, 2017, NYSOH received your child's updated application for health insurance.

On July 25, 2017, NYSOH issued a notice of eligibility determination, based on your July 24, 2017 application, stating that your child was eligible to enroll in Child Health Plus, effective September 1, 2017.

Also on July 25, 2017, NYSOH issued a notice of enrollment, based on your plan selection on July 24, 2017, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on September 1, 2017.

On August 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as she did not have coverage for the months of June, July, and August 2017.

On September 26, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan was terminated, effective September 1, 2017, because a premium payment had not been received by the health plan.

On November 16, 2017, NYSOH received your child's updated application for health insurance. That day, a preliminary eligibility determination was issued stating that your child was eligible for Child Health Plus, effective January 1, 2018.

Also on November 16, 2017, you spoke to NYSOH's Account Review Unit and requested to amend your appeal to include your request for your child to have coverage for the months of September, October, November, and December 2017.

On November 17, 2017, NYSOH issued a notice of eligibility determination, based on your November 16, 2017 application, stating that your child was eligible to enroll in Child Health Plus, effective January 1, 2018.

Also on November 17, 2017, NYSOH issued a notice of enrollment, based on your plan selection on November 16, 2017, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on January 1, 2018.

On December 11, 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) You testified that you are only appealing your child's coverage, and that you are seeking for your child to be reinstated into her Child Health Plus plan for June, July, August, September, October, November, and December of 2017.
- 2) Your child was enrolled into a Child Health Plus plan, effective April 1, 2017.
- 3) You testified that there was an issue with your payment for your child's Child Health Plus premium for June 2017. You explained that even though you sent a check to the Child Health Plus plan for the June 2017 premium there was an issue with the check being returned as invalid.
- 4) Your child was disenrolled from her Child Health plus plan, effective May 31, 2017.
- 5) You testified that you became aware that your child had been disenrolled from her Child Health Plus plan in July 2017 when you brought your child to [REDACTED].
- 6) You testified that when you became aware that your child had been disenrolled you contacted NYSOH to reenroll her.
- 7) On July 24, 2017 NYSOH received your updated application and Child Health Plus plan selection.
- 8) Your child was reenrolled into a Child Health Plus plan, effective September 1, 2017.
- 9) You testified that there was an issue with your payment for your child's Child Health Plus premium for September 2017. You explained that you issued payment to the Child Health Plus plan, and the check was cashed, however, the payment was never applied to your child's premium.
- 10) Your child was disenrolled from her Child Health Plus plan, effective September 1, 2017.
- 11) You testified that you became aware that your child had been disenrolled from her Child Health Plus plan again in September 2017 when you took her to [REDACTED].

- 12) You testified that you contacted NYSOH shortly after becoming aware that your child had been disenrolled from her Child Health Plus plan.
- 13) During the hearing, you gave permission for the Hearing Officer to listen to recordings of phone calls you had with NYSOH.
- 14) On July 24, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to reenroll your child in her Child Health Plus plan following a disenrollment for non-payment.
- 15) On August 2, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to appeal insofar as you were seeking that your child's Child Health Plus plan start date be backdated. You spoke with an Account Review Unit representative who filed an appeal on your behalf.
- 16) On November 3, 2017, you placed a phone call to NYSOH. A review of the recording of that phone reflects that you were calling in response to a renewal notice you received. The NYSOH representative advised you that you would need to call between November 16, 2017 and December 15, 2017 in order to renew your coverage.
- 17) On November 14, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to find out the status of your child's Child Health Plus coverage. The NYSOH representative advised you that she handled Medicaid inquiries only and would need to transfer you to someone who could review your child's Child Health Plus coverage. It appears that the call was dropped.
- 18) On November 15, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling to follow-up on the status of your child's Child Health Plus coverage. The NYSOH representative advised you that your child was enrolled in a Child Health Plus plan and that your child had active coverage. The representative advised you that you would need to call back on November 16, 2017 in order to update your and your spouse's coverage for 2017.
- 19) On November 16, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reflects that you were calling both to update your and your spouse's coverage for 2017 and to have your child reinstated into her Child Health Plus plan. The NYSOH representative updated your application, assisted you in reenrolling

your child into a Child Health Plus plan and transferred you to the NYSOH Account Review Unit in order for you to request that your child's coverage start date be back dated. The Account Review Unit representative stated that she would add the issue of backdating your child's coverage which was effective January 1, 2018 to your existing appeal.

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

Applicable Law and Regulations

Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Child Health Plus

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 Child Health Plus premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health

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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” (42 CFR § 457.340(f)).

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 terminated your child's Child Health Plus plan for non-payment of premium effective, May 31, 2017 and thereafter on September 1, 2017.

On March 2, 2017, your child was enrolled in a Child Health Plus plan, effective April 1, 2017.

You testified that for June 2017 you had issues with payment.

On June 8, 2017, NYSOH issued a notice stating that your child was disenrolled from her Child Health Plus plan for non-payment of premiums, effective May 31, 2017.

On July 24, 2017, your child was reenrolled into a Child Health Plus plan, effective September 1, 2017.

You testified that for September 2017 you again had issues with payment.

NYSOH Appeals Unit only has the authority to review issues related to the following: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

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Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your child was properly terminated from her Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the June 8, 2017 disenrollment notice and September 26, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your child's reenrollment in her Child Health Plus plan was effective September 1, 2017.

You contacted NYSOH on July 24, 2017 to reenroll your child into her 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.

As you contacted NYSOH to reenroll your child into a Child Health Plus plan on July 24, 2017, her reenrollment should have taken effect the first day of the second following month after July 2017; that is, on September 1, 2017.

Therefore, the July 25, 2017 enrollment confirmation notice stating that your child's reenrollment in her Child Health Plus plan was effective September 1, 2017 is AFFIRMED.

The third issue is whether NYSOH properly determined that your child's reenrollment in her Child Health Plus plan was effective January 1, 2018.

You testified that you contacted NYSOH regarding reenrolling your child in coverage after her second disenrollment for non-payment sometime in September 2017.

However, the record reflects that you did not contact NYSOH to reenroll your child in her Child Health Plus plan until November 14, 2017.

The November 14, 2017, call was disconnected and there is no indication that you contacted NYSOH again that day.

On November 15, 2017, you contacted NYSOH to follow-up on the status of your child's Child Health Plus plan enrollment. The NYSOH representative informed you that the NYSOH system was showing that your child was enrolled in a Child Health Plus plan and that her coverage was active.

However, the record reflects that your child had been disenrolled from her Child Health Plus plan in the September 26, 2017 disenrollment notice effective September 1, 2017.

Had you been properly advised by the NYSOH representative on November 15, 2017, you would have been able to select a Child Health Plus plan for your child for reenrollment that day.

As you contacted NYSOH to reenroll your child into a Child Health Plus plan on November 15, 2017, her reenrollment should have taken effect the first day of the first month after November 2017; that is, on December 1, 2017.

Therefore, the November 17, 2017 eligibility determination notice and the November 17, 2017 enrollment confirmation notice are MODIFIED to reflect that your child was eligible for and reenrolled in her Child Health Plus effective December 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan as of December 1, 2017.

Decision

Your appeal of the insurer's termination of your child's enrollment in her Child Health Plus plan for non-payment of premiums, effective May 31, 2017 and September 1, 2017, is DISMISSED as a non-appealable issue.

The July 25, 2017 enrollment confirmation notice is AFFIRMED.

The November 17, 2017 eligibility determination notice is MODIFIED to reflect that your child was eligible for Child Health Plus effective December 1, 2017.

The November 17, 2017 enrollment confirmation notice is MODIFIED to reflect that your child was reenrolled in her Child Health Plus plan effective December 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan as of December 1, 2017.

Effective Date of this Decision: December 18, 2017

How this Decision Affects Your Eligibility

Your child's reenrollment in her Child Health Plus plan was effective September 1, 2017.

Your child's subsequent reenrollment in her Child Health Plus plan should have been effective as of December 1, 2017.

Your case is being sent back to NYSOH to enroll your child in her Child Health Plus plan as of December 1, 2017.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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

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

Summary

Your appeal of the insurer's termination of your child's enrollment in her Child Health Plus plan for non-payment of premiums, effective May 31, 2017 and September 1, 2017, is **DISMISSED** as a non-appealable issue.

The July 25, 2017 enrollment confirmation notice is **AFFIRMED**.

Your child's reenrollment in her Child Health Plus plan was effective September 1, 2017.

The November 17, 2017 eligibility determination notice is **MODIFIED** to reflect that your child was eligible for Child Health Plus effective December 1, 2017.

The November 17, 2017 enrollment confirmation notice is **MODIFIED** to reflect that your child was reenrolled in her Child Health Plus plan effective December 1, 2017.

Your child's subsequent reenrollment in her Child Health Plus plan should have been effective as of December 1, 2017.

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Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan as of December 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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