



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: December 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021823

[REDACTED]

[REDACTED]

On October 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 27, 2017 discontinuance and disenrollment notices.

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
PO 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(b).

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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NY State of Health Account ID: [REDACTED]
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[REDACTED]

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 children's eligibility for, and enrollment in, their Child Health Plus coverage terminated effective July 31, 2017?

Did NYSOH properly determine that your eligibility for, and enrollment in, your Essential Plan coverage terminated effective July 31, 2017?

Procedural History

On October 16, 2016, NYSOH issued a renewal and eligibility determination notice stating that you continue to qualify for health care coverage under the Essential Plan, effective January 1, 2017. The notice also stated that each of your children still qualified for coverage with Child Health Plus (CHP), effective January 1, 2017. Finally, the notice stated that you and your children were re-enrolled in your current health plans for another year, and you do not have to do anything further.

On November 18, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan, and your children's enrollment in a CHP plan, as of November 17, 2016. In each case, your family's coverage under your respective plans would begin effective January 1, 2017.

On July 7, 2017, NYSOH issued an additional enrollment notice confirming your family's enrollment in your respective health plans as of July 6, 2017. The notice

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also confirmed your enrollment in a standalone dental plan, with such coverage effective as of January 1, 2017. This notice was returned to NYSOH as undeliverable on July 21, 2017, and was posted to your NYSOH account on July 26, 2017.

On July 27, 2017, NYSOH issued a discontinuance notice, stating that you and your children were no longer eligible to enroll in coverage through NYSOH, effective August 1, 2017, because mail was sent to you at the mailing address provided in your account, and returned to NYSOH as undeliverable. This document was in turn returned to NYSOH as undeliverable on August 7, 2017.

Also on July 27, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end on July 31, 2017, and your children's CHP plan coverage would also end effective July 31, 2017. The notice also stated that your standalone dental plan coverage ended effective August 1, 2017. This document was also returned to NYSOH as undeliverable on August 7, 2017.

On August 24, 2017, NYSOH received an update to your application for health insurance. In response to your application, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in the Essential Plan, for a limited time, effective October 1, 2017. You were requested to provide proof of your income to confirm your eligibility. The preliminary eligibility determination also stated that your children were eligible for CHP, effective October 1, 2017.

Also on August 24, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your Essential Plan, and your children's CHP plan coverage, did not begin effective August 1, 2017.

On August 25, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, for a limited time, effective October 1, 2017. You were requested to provide proof of your income by November 22, 2017 to confirm your eligibility. The notice stated that your children were found eligible for CHP, without condition, effective October 1, 2017.

Also on August 25, 2017, NYSOH issued an enrollment notice confirming your selection of an Essential Plan as of August 24, 2017, and your selection of a CHP plan for your children as of August 24, 2017. The notice stated that your respective plan coverage would begin effective October 1, 2017.

Finally, on August 25, 2017, NYSOH issued a notice confirming that you had changed your mailing address to: [REDACTED]

October 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

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Findings of Fact

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

- 1) You testified that you are appealing your children's disenrollment from their CHP plans, as well as your enrollment from your Essential Plan, during the months of August and September 2017.
- 2) You testified, and your NYSOH account reflects, that you and your children were enrolled in your respective plans beginning at least as early as January 1, 2017.
- 3) You testified that your address has always been "[REDACTED]".
[REDACTED]
[REDACTED] You testified that you do not recall updating your mailing address in your NYSOH account, and that this might have been done by a NYSOH representative when you enrolled in your standalone dental plan.
- 4) On July 7, 2017, NYSOH issued an enrollment notice confirming your selection of a standalone dental plan as of July 6, 2017. This notice was sent to the address [REDACTED] returned to NYSOH by the United States Post Office with a label stating, "Return to Sender, Not Deliverable as Addressed; Unable to Forward." NYSOH uploaded this returned notice to your NYSOH account on July 26, 2017.
- 5) You testified that you only realized that you and your children were no longer covered by your health plan when told by a provider that your coverage had lapsed.
- 6) On August 24, 2017, NYSOH issued notices stating that you and your children were no longer eligible for coverage through NYSOH under your respective plans, and that you and your children were being disenrolled from health plans as of July 31, 2017. These documents were also issued to [REDACTED]" mailing address, and returned to NYSOH as undeliverable shortly thereafter.
- 7) You testified that you have not had any other address since you created your NYSOH account on September 26, 2015.
- 8) You testified, and your NYSOH account reflects, that you updated your mailing address on August 24, 2017 to "[REDACTED]".
[REDACTED]

- 9) You testified that a NYSOH representative informed you that your children were being disenrolled from their coverage because a piece of mail that was sent to you was sent back to NYSOH and marked “undeliverable.”
- 10) You testified, and your NYSOH account confirms, that you updated your application and reenrolled you and your children in your respective plans on August 24, 2017.
- 11) You testified that you were seeking to have coverage for your family reinstated during the months of August and September 2017 due to medical bills that you incurred during that time.

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

Applicable Law and Regulations

Child Health Plus

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) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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 PHL § 2511(2)(a)-(e)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child’s parent or caretaker relative to take appropriate actions to allow CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

The State of New York has provided that a child’s period of eligibility for CHP 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

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

Essential Plan Eligibility

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children's eligibility for, and enrollment in, their CHP coverage terminated effective July 31, 2017.

A child will be eligible for CHP through NYSOH if that child meets the financial and non-financial requirements. One of the requirements for CHP eligibility is NY State residency.

On July 6, 2017, it appears that your mailing address was updated on your behalf by a NYSOH representative from [REDACTED]

On July 7, 2017, NYSOH sent an enrollment notice to this new mailing address. This notice was returned to NYSOH by the post office as undeliverable mail. As a result, NYSOH issued notices on July 27, 2017 stating that your children were no longer eligible to remain in CHP, and that they were disenrolled from their CHP plan as of July 31, 2017.

You credibly testified that you did not actively update your mailing address on July 6, 2017. Further, your NYSOH account reflects that your residence address has not changed since the inception of your NYSOH account on September 26, 2015. The record contains two other notices sent to this mailing address that were returned to NYSOH as undeliverable. These notices were issued to this address prior to your mailing address correction on August 24, 2017. Additionally, your credible testimony, and the information in your NYSOH account, make it clear that your children never lacked NY State residency, and were never ineligible for coverage through NYSOH.

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Therefore, the Appeals Unit finds that your children's coverage through NYSOH should not have been ended, because your address was improperly changed and your children never changed their residency.

The second issue under review is whether NYSOH properly determined that your eligibility for, and enrollment in, you Essential Plan coverage terminated effective July 31, 2017.

Your account confirms you enrolled in an Essential Plan, effective January 1, 2017, but that enrollment was subsequently terminated after the July 7, 2017 enrollment notice issued to the mailing address listed on your account was returned to NYSOH by the U.S. Postal Service as undeliverable on July 26, 2017.

Pursuant to the regulations, only NY State residents are eligible to enroll in the Essential Plan. According to your account, NYSOH initially determined you were no longer eligible to enroll in the Essential Plan, effective August 1, 2017, after your mailing address was marked invalid, because your status as a state resident could not be confirmed.

Based on your credible testimony, the NYSOH Appeals Unit's findings above with respect to your children's eligibility, and your NYSOH account records, we find that NYSOH erroneously discontinued your Essential Plan coverage effective July 31, 2017 based on returned mailings having been issued to an improper address.

Since the credible evidence of record reflects that these notices were issued to an improper address, which you were not responsible for, and you and your children never lacked NY State residency, the Appeals Unit finds that NYSOH failed to provide you with sufficient notice that would have allowed you to act to prevent a gap in Essential Plan and CHP coverage for you and your children, respectively, during the months of August and September 2017, and that your family's coverage was improperly terminated. Therefore, the July 27, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstated your family's Essential Plan and CHP plan coverage during the months of August and September 2017.

Decision

The July 27, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstated your family's Essential Plan and CHP plan coverage during the months of August and September 2017.

Effective Date of this Decision: December 11, 2017

How this Decision Affects Your Eligibility

You should not have been disenrolled from your Essential Plan and your children should not have been disenrolled from their CHP during the months of August and September 2017.

Your case is being sent back to NYSOH to reinstate your family's Essential Plan and CHP coverage for the months of August and September 2017. Please note, however, that you will be responsible for any premiums due in connection with this reinstatement of coverage.

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:

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).

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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 27, 2017 discontinuance and disenrollment notices are RESCINDED.

You should not have been disenrolled from your Essential Plan during the months of August and September 2017.

Your children should not have been disenrolled from their CHP plan during the months of August and September 2017.

Your case is being sent back to NYSOH to reinstate your family's Essential Plan and CHP coverage for the months of August and September 2017. Please note, however, that you will be responsible for any premiums due in connection with this reinstatement of coverage.

Legal Authority

We are issuing this determination in accordance with 45 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).

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 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.