



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

Notice of Decision

Decision Date: December 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022133

[REDACTED]

[REDACTED]

On November 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 29, 2017 disenrollment notice and September 6, 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

Decision Date: December 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022133

[REDACTED]

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, June 30, 2017?

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

Procedural History

On May 26, 2017, you updated your child's application for financial assistance with health insurance.

Also on May 26, 2017, you spoke to NYSOH's Account Review Unit and requested that your child's Child Health Plus enrollment be backdated to June 1, 2017. As a result, a complaint [REDACTED] was created.

On May 27, 2017, NYSOH issued a notice of eligibility determination, based on your May 26, 2017 application, stating that your child was eligible for Child Health Plus effective July 1, 2017.

Also on May 27, 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 July 1, 2017.

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On June 8, 2017, NYSOH granted your request to begin your child's enrollment in her Child Health Plus plan as of June 1, 2017.

On June 9, 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 was effective as of June 1, 2017.

On July 20, 2017, you updated your child's application for financial assistance with health insurance.

On July 21, 2017, NYSOH issued a notice of eligibility, based on your July 20, 2017 application stating that your child was eligible for Child Health Plus, effective September 1, 2017.

Also on July 21, 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 was effective as of June 1, 2017.

On August 29, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan was terminated, effective June 30, 2017, because a premium payment had not been received by the health plan.

On September 5, 2017, NYSOH received your child's updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that your child was eligible for Child Health Plus and you reenrolled your child into a Child Health Plus plan.

Also on September 5, 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 July, August, and September 2017.

On September 6, 2017, NYSOH issued a notice of eligibility determination, based on your September 5, 2017 application, stating that your child was eligible to enroll in Child Health Plus, effective October 1, 2017.

Also on September 6, 2017, NYSOH issued a notice of enrollment, based on your plan selection on September 5, 2017, stating that your child was enrolled in a Child Health Plus plan and that coverage would start on October 1, 2017.

On November 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] translated. 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 disenrollment from her Child Health Plus plan for the months of July, August, and September 2017.
- 2) Your child was enrolled into a Child Health Plus plan, effective June 1, 2017.
- 3) You testified that you had paid ahead on your child's Child Health Plus plan and that this was applied to the premium for June 2017.
- 4) You testified that you tried to sign into your child's Child Health Plus plan on-line account on June 29, 2017 or June 30, 2017 as well as the beginning of July 2017 in order to make the July premium payment. You testified that you were unable to make a payment. You later learned that this was because your child had been assigned a new member number.
- 5) You further testified that you called your child's Child Health Plus plan on July 10, 2017 or July 12, 2017 in order to make a payment. At that time, you were informed that your child had been disenrolled for non-payment of premiums.
- 6) Your child was disenrolled from her Child Health plus plan, effective June 30, 2017.
- 7) You testified that after you learned that your child had been disenrolled from her Child Health Plus plan, you contacted NYSOH to reenroll your child. However, when you contacted NYSOH, you were advised that the NYSOH system was showing that your child still had active coverage which would continue until August 2018.
- 8) The record reflects that you first contacted NYSOH to reenroll your child in a Child Health Plus plan on July 20, 2017.
- 9) You testified that in September 2017 you contacted NYSOH to update your marital status and it was at that time that you were able to reenroll your child in her Child Health Plus plan with a plan enrollment start date of October 1, 2017.

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 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)).

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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, June 30, 2017.

On May 27, 2017, your child was enrolled in a Child Health Plus plan, effective July 1, 2017. On June 8, 2017, this was amended to reflect that your child was enrolled in a Child Health Plus plan, effective June 1, 2017.

You testified that you tried to sign into your child's Child Health Plus plan on June 29, 2017 or June 30, 2017 as well as the beginning of July 2017 in order to make the July premium payment. You testified that you were unable to make a payment. You later learned that this was because your child had been assigned a new member number.

On August 29, 2017, NYSOH issued a notice stating that your child was disenrolled from her Child Health Plus plan for non-payment of premiums, effective June 30, 2017.

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.

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 August 29, 2017 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 October 1, 2017.

You credibly testified that on July 10, 2017 or July 12, 2017 you contacted your child's Child Health Plus plan and were informed that she had been disenrolled from her plan as of June 30, 2017 for non-payment of premium.

You contacted NYSOH on July 20, 2017 to reenroll your child into her Child Health Plus plan. However, you were unable to reenroll your child into a Child Health Plus plan at that time as your child's Child Health Plus plan had not yet advised NYSOH that your child had been disenrolled from her plan.

This delay on the part of the Child Health Plus plan prevented you from being able to reenroll your child into a Child Health Plus plan until September 5, 2017.

Had your child's Child Health Plus plan notified NYSOH of your child's disenrollment without delay, you would have been able to select a plan for reenrollment for your child when you contacted NYSOH on July 20, 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 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 first contacted NYSOH to reenroll your child into a Child Health Plus plan after learning of her disenrollment on July 20, 2017, her reenrollment should have taken effect the first day of the second following month after July; that is, on September 1, 2017.

Therefore, the September 6, 2017 enrollment confirmation notice is MODIFIED to reflect that your child's reenrollment in her Child Health Plus Plan was effective September 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in her Child Health Plus plan as of September 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 June 30, 2017, is DISMISSED as a non-appealable issue.

The September 6, 2017 enrollment confirmation notice is MODIFIED to reflect that your child's reenrollment in her Child Health Plus Plan was effective September 1, 2017.

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

Effective Date of this Decision: December 4, 2017

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to enroll your child into her Child Health Plus plan as of September 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

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).

- 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
- 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 June 30, 2017, is **DISMISSED** as a non-appealable issue.

The September 6, 2017 enrollment confirmation notice is **MODIFIED** to reflect that your child's reenrollment in her Child Health Plus Plan was effective September 1, 2017.

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

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

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).

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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.

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