



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

Notice of Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022345

[REDACTED]
[REDACTED]
[REDACTED],

On January 10, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's August 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022345

[REDACTED]

[REDACTED]

Issue

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

Did NY State of Health properly determine that your child's enrollment in his Child Health Plus plan through Emblem Health was effective October 1, 2017?

Procedural History

On July 21, 2017 NY State of Health (NYSOH) issued a notice of eligibility determination, based on your July 20, 2017 application, stating that your child was eligible to enroll in a Child Health Plus plan at full cost for a limited time, effective September 1, 2017. This notice directed you to provide proof of your child's social security number and citizenship by October 18, 2017 in order to confirm his eligibility for health insurance.

Also on July 21, 2017, NYSOH issued a notice of enrollment, based on your plan selection on July 20, 2017, stating that your child was enrolled in a Child Health Plus plan through Empire BlueCross BlueShield, and that this enrollment in the plan would start as of July 1, 2017.

On August 4, 2017, you updated your application for health insurance for your household. Specifically, you updated your application from a financial assistance

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application to a non-financial assistance application. That day, NYSOH prepared a preliminary eligibility determination with regard to that application, stating that your child was eligible to enroll in a qualified health plan at full cost through NYSOH, effective September 1, 2017.

Also on August 4, 2017, you again updated your application for health insurance for your household. Specifically, you updated your application from a non-financial assistance application to a financial assistance application.

On August 5, 2017, NYSOH issued a disenrollment notice stating that your child's coverage with his Child Health Plus plan through Empire BlueCross BlueShield would end on August 31, 2017. This was because he was no longer eligible to enroll in a Child Health Plus plan.

Also on August 5, 2017, NYSOH issued a notice of eligibility determination, based on the last application you submitted on August 4, 2017, stating that your child was eligible to enroll in a Child Health Plus plan at full cost, effective July 1, 2017.

Additionally, on August 5, 2017, NYSOH issued a notice of enrollment, based on your plan selection on August 4, 2017, stating that your child was enrolled in a Child Health Plus plan through Empire BlueCross BlueShield with a plan enrollment start date of September 1, 2017.

On August 16, 2017, you contacted NYSOH and requested to change your child's Child Health Plus plan enrollment from Empire BlueCross BlueShield to Emblem Health.

On August 17, 2017, NYSOH issued a disenrollment notice stating that your child's coverage with his Child Health Plus plan through Empire BlueCross BlueShield would end on September 30, 2017.

Also on August 17, 2017, NYSOH issued a notice of enrollment, based on your plan selection on August 16, 2017, stating that your child was enrolled in a Child Health Plus plan through Emblem Health with a plan enrollment start date of October 1, 2017.

On September 12, 2017 you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan through Emblem Health insofar as it did not begin July 1, 2017.

On December 11, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On January 10, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. During the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. The record was developed during the hearing and left open until January 17, 2018 to allow you the opportunity to submit additional documentation in support of your appeal.

On January 17, 2018, you uploaded a seven-page memorandum in support of your appeal, which is marked as document [REDACTED]. This memorandum is hereby incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you are appealing only your child's enrollment start date for his Child Health Plus plan through Emblem Health. You stated that you are seeking for his enrollment through this plan to begin on July 1, 2017.
- 2) Your child was born on [REDACTED].
- 3) You submitted an application to NYSOH for financial assistance on July 20, 2017.
- 4) You testified that you were advised at that time that your child was eligible for Child Health Plus and your child was enrolled into a Child Health Plus plan through Empire BlueCross BlueShield.
- 5) You testified that you were not given the option to select a Child Health Plus plan and that you were told that the Child Health Plus plan through Empire BlueCross BlueShield was going to be your child's plan and that the plan would begin as of July 1, 2017.
- 6) On August 4, 2017, you submitted two applications for financial assistance. The first was a non-financial application, which resulted in your child being disenrolled from his Child Health Plus plan through Empire BlueCross BlueShield as of August 31, 2017, the second was a financial application, which resulted in your child being found eligible for Child Health Plus effective September 1, 2017. That day, you reenrolled your child in a Child Health Plus plan through Empire BlueCross BlueShield, which enrollment was effective September 1, 2017.
- 7) You testified that the reason you are seeking to have your child's enrollment in his Child Health Plus plan through Emblem Health begin as of July 1, 2017 is because your child's pediatrician does not accept Child

Health Plus through Empire BlueCross BlueShield and he has outstanding medical bills.

- 8) You uploaded a letter dated October 23, 2017 from your child's doctor stating that they have not accepted Child Health Plus through Empire BlueCross BlueShield since 2014, as well as bills from your child's doctor for services provided on [REDACTED], [REDACTED], and [REDACTED], a bill from [REDACTED] from [REDACTED], and a receipt for prescriptions filled [REDACTED]
- 9) You testified that after your child was born, you contacted Empire BlueCross BlueShield to add your child to your plan. You were eventually advised by the plan that you would need to contact NYSOH in order to add your child to your plan.
- 10) You testified that you selected your child's doctor prior to his birth and that Empire BlueCross BlueShield advised you that your child's doctor accepted Empire BlueCross BlueShield. You further testified that you made no inquiry of your child's doctor to find out if they accepted Empire BlueCross BlueShield. You testified that you do not believe that any NYSOH representatives advised you that your child's doctor accepted Empire BlueCross BlueShield.
- 11) You submitted a memorandum that states on [REDACTED] "[You] visited the pediatrician's office and interviewed the doctor. [You] confirmed with the office administrator that they accepted Empire BCBS plan, which [you] planned on adding [your] son to at birth."
- 12) You testified that once you learned that your child's doctor did not accept Child Health Plus through Empire BlueCross BlueShield, you contacted NYSOH to change your child's 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 19, 2017, you placed a call to NYSOH. A review of the recording of that phone call reflects that you were calling to add your child to your account. You did not complete the application at that time, and indicated you would call back at a later time.
- 15) On July 20, 2017, you placed a call to NYSOH. A review of the recording of that phone call reflects that you were calling to complete your household's application for health insurance. You advised the NYSOH representative that you already had a plan through Empire BlueCross BlueShield and that you wanted to add your child to your plan. After completing the application, the NYSOH representative advised you that

your child was eligible for Child Health Plus. You then stated that you wanted your child to have Empire BlueCross BlueShield. The NYSOH representative then confirmed that your child would have Child Health Plus through Empire BlueCross BlueShield effective July 1, 2017.

16) On August 4, 2017, you placed a call to NYSOH. A review of the recording of that phone call reflects that you were calling to correct the spelling of your child's name. During that phone call, you insisted that you did not want to submit a financial assistance application, and your application was updated to a non-financial assistance application. The NYSOH representative then advised you that your child was no longer eligible for Child Health Plus, but could be added to a parent and child plan qualified health plan. After reviewing the cost of premiums for a parent and child plan through Empire BlueCross BlueShield, you indicated that you wanted your child to have Child Health Plus, at which time your application was updated to a financial assistance application. Following completion of the financial assistance application, the NYSOH representative advised you that your child was again eligible for Child Health Plus. The NYSOH representative then inquired if you wanted your child to remain with Empire BlueCross BlueShield, or if you would like to review other options. The NYSOH representative also asked if you wanted to confirm with your child's doctor which coverage they accepted and call back with your plan selection. You indicated that you wanted your child to have Empire BlueCross BlueShield and your child was reenrolled into a Child Health Plus plan through Empire BlueCross BlueShield.

17) On August 15, 2017, you placed multiple phone calls to NYSOH with a representative from Empire BlueCross BlueShield on the line. A review of the recordings of those phone calls reveals that you were calling as Empire BlueCross BlueShield was having difficulty locating your child in their system. The NYSOH representatives advised you that the NYSOH system indicated that your child had Child Health Plus through Empire BlueCross BlueShield.

18) On August 16, 2017, you placed multiple phone calls to NYSOH. A review of the recordings of those phone calls reveals that you changed your plan selection for your child's Child Health Plus plan from Empire BlueCross BlueShield to Emblem Health and you were seeking to have this new coverage begin as of July 1, 2017.

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

Applicable Law and Regulations

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Child Health Plus

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

Child Health Plus – Newborns

A newborn child who is eligible for Child Health Plus shall be enrolled retroactively to the first day of the month in which the child is born, provided that the applicant submitted a completed application and required information and documentation within sixty days of the child’s birth (NY Public Health Law §2511(2)(i)(i), effective January 1, 2017).

Legal Analysis

The issue is whether NYSOH properly determined that your child’s enrollment in his Child Health Plus plan through Emblem Health was effective October 1, 2017.

Your child was born on [REDACTED]. On July 20, 2017, you submitted an application for financial assistance through NYSOH and your child was found eligible for Child Health Plus. You enrolled your child into Child Health Plus through Empire BlueCross BlueShield because you had selected your child’s doctor prior to his birth and Empire BlueCross BlueShield advised you that your child’s doctor accepted Empire BlueCross BlueShield. You testified that you made no inquiry of your child’s doctor to find out if they accepted Empire

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BlueCross BlueShield. However, a memorandum you submitted post-hearing contradicts your testimony, your memorandum states on [REDACTED] you visited the pediatrician's office and interviewed the doctor and confirmed with the office administrator that they accepted Empire BlueCross BlueShield plan.

As a result, your child was enrolled into a Child Health Plus plan through Empire BlueCross BlueShield as of July 1, 2017, which is the month in which your child was born. This was because Child Health Plus eligible newborns are enrolled retroactively to the first day of the month in which the child was born in the plan selected for them, provided that the applicant submitted a completed application and required information and documentation within sixty (60) days of the child's birth.

Thereafter, on August 4, 2017, you confirmed that you wanted your child to have his Child Health Plus coverage through Empire BlueCross BlueShield. A review of the August 4, 2017 phone recordings indicate that an NYSOH representative inquired if you wanted your child to remain with Empire BlueCross BlueShield, or if you would like to review other options. The NYSOH representative also asked if you wanted to confirm with your child's doctor which coverage they accepted and call back with your plan selection. You indicated that you wanted your child to have Empire BlueCross BlueShield and your child was reenrolled into a Child Health Plus plan through Empire BlueCross BlueShield.

You testified that you subsequently learned that your child's doctor did not accept Child Health Plus through Empire BlueCross BlueShield and you contacted NYSOH to change your child's plan. On August 16, 2017 you then requested that your child be disenrolled from Empire BlueCross BlueShield and instead enrolled into a Child Health Plus plan through Emblem Health.

Though this change was still within 60 days of your child's birth, your child had already been enrolled into a Child Health Plus plan through Empire BlueCross BlueShield as of the date of his birth. Therefore, general Child Health Plus plan start dates apply.

The date on which a Child Health Plus plan can generally 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 selected a Child Health Plus plan through Emblem Health on August 16, 2017, your child's enrollment in his Child Health Plus plan through Emblem Health properly took effect on the first day of the second month following August 2017; that is, on October 1, 2017.

Therefore, the August 17, 2017 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan through Emblem Health was effective October 1, 2017, is correct and must be AFFIRMED.

Decision

The August 17, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 25, 2018

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan through Emblem Health is October 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

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).

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

The August 17, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan through Emblem Health is October 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:

[REDACTED]

[REDACTED]

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&etumi ama wo obi a okyerE 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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