



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

Notice of Decision

Decision Date: November 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022443

[REDACTED]

Dear [REDACTED]

On November 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 25, 2016 eligibility determination and plan enrollment 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
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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DEPARTMENT OF HEALTH
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Decision

Decision Date: November 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022443

[REDACTED]

Issues

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

Was your appeal of NY State of Health's October 25, 2017 eligibility determination and plan enrollment notices timely?

Did NY State of Health properly determine that your newborn child's eligibility for and enrollment in a full pay Child Health Plus plan was effective December 1, 2016?

Procedural History

On September 14, 2016, your newborn child (child) was added to your NY State of Health (NYSOH) account and a non-financial application was run.

On September 15, 2016, NYSOH issued an eligibility determination, based on your September 14, 2016 non-financial application, stating that your child was eligible to enroll in a full pay qualified health plan, effective October 1, 2016.

Also on September 15, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on September 15, 2016, confirming that your child was enrolled in a full pay qualified health plan, effective September 1, 2016.

On October 24, 2016, NYSOH received your updated application for financial assistance with your child's health insurance.

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On October 25, 2016, NYSOH issued an eligibility determination stating that your child was eligible to enroll in a full pay Child Health Plus plan or Child-Only qualified health plan, effective December 1, 2016.

Also on October 25, 2016, NYSOH issued a plan enrollment notice, based on your October 24, 2016 application, confirming your child's enrollment in a full pay Child Health Plus plan, effective December 1, 2016.

On September 16, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan coverage insofar as it began on December 1, 2016, and not as of [REDACTED] the date of your child's birth.

On November 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open to allow for the Hearing Officer to listen to the telephone records from NYSOH's Call Center from September 14, 2016.

The Hearing Officer listened to the available telephone recording from September 14, 2016, after which the record was closed.

Findings of Fact

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

- 1) You testified that you are appealing your child's Child Health Plus plan start date.
- 2) According to your NYSOH account and your testimony, your child was born [REDACTED].
- 3) You testified that you had been doing research prior to your child's birth to ensure that your child would have health care coverage when she was born.
- 4) You testified that you had spoken to many representatives, prior to your child's birth, that informed you that your child would be eligible for Child Health Plus as of the date of her birth if you applied within 60 days after your child's date of birth.
- 5) According to your NYSOH account, on September 14, 2016, you updated your NYSOH account to include your child, and a non-financial application was submitted that day.

- 6) According to your NYSOH account, on September 14, 2016, your child was found eligible for a full pay qualified health plan and she was enrolled into a qualified health plan, effective September 1, 2016.
- 7) You testified that, on September 14, 2016, you were under the impression that your child was enrolled into a Child Health Plus plan.
- 8) NYSOH's Appeals Unit reviewed the telephone call you had with NYSOH on September 14, 2016, and determined that:
 - a. You indicated that you were calling because you had just had a baby, and before you had the baby you had received help from Child Health Plus.
 - b. You stated to the NYSOH representative that you would like to add your child to a Child Health Plus plan.
 - c. The NYSOH representative stated that your child was eligible for a full pay qualified health plan. The NYSOH representative further stated that you needed to pick a plan for enrollment. You picked a plan for enrollment after being informed of the providers in your area.
 - d. The NYSOH representative informed you of the premium payment for the plan you selected for enrollment, and you asked how that was calculated.
 - e. The NYSOH representative informed you the premium amount was based on your and your spouse's income information.
 - f. Before discontinuing the call, the NYSOH representative informed you that your child's coverage would begin as of September 1, 2016.
- 9) You testified that you received a medical bill, in October 2016, from the hospital where [REDACTED] and realized that your child was enrolled into a qualified health plan and not a Child Health Plus plan.
- 10) According to your NYSOH account, on October 24, 2016, you contacted NYSOH to enroll your child into a Child Health Plus plan.
- 11) According to your NYSOH account, on October 25, 2016, a formal complaint was filed through NYSOH regarding your child's enrollment in a Child Health Plus plan; however, a formal appeal was never filed (see [REDACTED]).
- 12) According to your NYSOH account, your child has been disenrolled from her qualified health plan as of September 1, 2016, at your request.
- 13) You testified that you want your child's Child Health Plus plan to start as of [REDACTED] the date of her birth.

14) According to your NYSOH account, your child does not currently have coverage through NYSOH.

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

Applicable Law and Regulations

Valid Appeal Requests

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 the Exchange 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)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Child Health Plus

CHP is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

The "period of eligibility" for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP begins on the first day of the month during which a child is eligible. A child will

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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).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into CHP, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's October 25, 2016 eligibility determination and plan enrollment notices was timely.

The record reflects that, On September 15, 2017, you filed a formal appeal of your child's eligibility for and enrollment in her Child Health Plus plan, effective December 1, 2016.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the whether your child was erroneously enrolled in her qualified health plan as stated in the October 25, 2016 eligibility determination and plan enrollment notices, an appeal should have been filed on or around December 24, 2016. The record reflects that your appeal was filed on September 15, 2017, which is well beyond the 60-day deadline.

However, you testified, and the record reflects, that you had contacted NYSOH before filing the appeal on and around October 24, 2016, and were told multiple times that the issue was being reviewed. The credible evidence on the record indicates that, through no fault of your own, there was never a formal appeal filed until September 15, 2017. Therefore, your appeal is found timely.

The second issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in her Child Health Plus plan was effective December 1, 2016.

Your child was born [REDACTED] and on September 14, 2016, your child was added to your NYSOH account. A non-financial application was submitted that day, and your child was found eligible for and enrolled in a full pay qualified health plan, effective September 1, 2016. On October 24, 2016, you contacted NYSOH, after realizing that your child was enrolled into a qualified health plan and not a Child Health Plus plan. A financial application was submitted on October 24, 2016, and your child was found eligible for and was enrolled in a full pay Child Health Plus plan, effective December 1, 2016.

Ordinarily, the date on which a Child Health Plus plan can take effect typically depends on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

However, you testified that you contacted NYSOH on September 14, 2016, to add your child to a Child Health Plus plan. You further testified that you had done research prior to your child's birth to ensure that Child Health Plus coverage would be available to your child when she was born. A review of the telephone recording from September 14, 2016 indicates that you informed the NYSOH representative that you were seeking to have your child enrolled into a Child Health Plus plan. Without informing you that Child Health Plus was only available on a financial application, the NYSOH representative added your child and stated that your child qualified for a qualified health plan. During the telephone call, the NYSOH representative verbally stated the names of some of the qualified health plan providers in your area, without going into details, and you enrolled your child into a qualified health plan before disconnecting the call.

The credible evidence of the record indicates that, on September 14, 2016, you were under the impression that you were enrolling your child into a Child Health Plus plan. Had NYSOH properly determined your child's eligibility on September 14, 2016, your child would have been found eligible for a full pay Child Health Plus plan and you would have been able to select a plan for your child's enrollment that day. If you had selected a Child Health Plus plan on September 14, 2016 for your child's enrollment, it would have started the first day of the month following September 2016; that is, on October 1, 2016.

You testified that you would like your child's Child Health Plus coverage to start as of [REDACTED] since prior to your child's birth you were informed that your child would be enrolled into Child Health Plus coverage as of the date of her birth if you added your child to your NYSOH within 60 days of her birth.

Certain special exceptions have been made for newborns seeking coverage through Medicaid or Qualified Health Plans as of the newborn's date of birth. In both cases, newborns are permitted to enroll in coverage, effective as of their date of birth. The new amendment for newborn Child Health Plus applicants that

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went into effect on January 1, 2016 provided that, in the case of a newborn enrolled into CHP, the date of enrollment would be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

As a result, your child would not have been found eligible for enrollment in her Child Health Plus plan as of the date of her birth. However, due to error made by NYSOH as explained above, your child should have been found eligible for and enrolled in her Child Health Plus plan, effective October 1, 2016, and not December 1, 2016.

Therefore, the October 25, 2016 eligibility determination and plan enrollment notices are MODIFIED to reflect that your child was eligible for and enrolled in her Child Health Plus plan, effective October 1, 2016.

Your case is RETURNED to NYSOH to facilitate your child's enrollment into her Child Health Plus plan, effective October 1, 2016.

Decision

The October 25, 2016 eligibility determination and plan enrollment notices are MODIFIED to reflect that your child was eligible for and enrolled in her Child Health Plus plan, effective October 1, 2016.

Your case is RETURNED to NYSOH to facilitate your child's enrollment into her Child Health Plus plan, effective October 1, 2016.

Effective Date of this Decision: November 27, 2017

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan coverage should have been October 1, 2016.

Your case is being sent back to NYSOH to ensure that your child is enrolled into her Child Health Plus plan as of October 1, 2016.

You will be responsible for any premium payments for months that your child is enrolled into coverage.

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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 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

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- By fax: 1-855-900-5557

Summary

The October 25, 2016 eligibility determination and plan enrollment notices are MODIFIED to reflect that your child was eligible for and enrolled in her Child Health Plus plan, effective October 1, 2016.

Your case is RETURNED to NYSOH to facilitate your child's enrollment into her Child Health Plus plan, effective October 1, 2016.

The effective date of your child's Child Health Plus plan coverage should have been October 1, 2016.

Your case is being sent back to NYSOH to ensure that your child is enrolled into her Child Health Plus plan as of October 1, 2016.

You will be responsible for any premium payments for months that your child is enrolled into coverage.

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 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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