



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

Notice of Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022656

[REDACTED]

On November 30, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 13, 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.

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 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022656

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that your child's eligibility for, and enrollment in, his Child Health Plus (CHP) coverage should end, effective June 1, 2017?

Procedural History

On November 10, 2016, NYSOH issued a notice of eligibility determination stating your child was eligible for CHP, effective December 1, 2016.

Also on November 10, 2016, NYSOH issued a notice of enrollment confirming your child was enrolled in a CHP plan, effective December 1, 2016.


On December 28, 2016, NYSOH issued a notice confirming a change in your mailing address indicating that it had received information from the US Postal Service that your new address was:

[REDACTED]

The notice stated that all notices about your eligibility and coverage with NYSOH would be mailed to that address.

On March 3, 2017, NYSOH issued another change of address notice stating that you had changed your mailing address to:

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The notice stated that all notices about your eligibility and coverage with NYSOH would be mailed to that address.

On May 12, 2017, your mailing address was marked invalid by NYSOH.

On May 13, 2017, NYSOH issued a discontinuance notice, stating your child was no longer eligible to enroll in coverage through NYSOH, effective June 1, 2017, because mail sent to you at the mailing address provided in your account had been returned to NYSOH as undeliverable.

Also on May 13, 2017, NYSOH issued a notice of disenrollment, stating that your child's enrollment in his CHP plan would end effective May 31, 2017, because he was no longer eligible to enroll in health insurance through NYSOH.

On September 21, 2017, you updated your NYSOH account and selected a CHP plan for your child.

Also on September 21, 2017, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his CHP coverage, which resulted in him being uninsured for part of 2017.

On September 22, 2017, NYSOH issued an enrollment notice, based on your September 21, 2017 plan selection, confirming your child's reenrollment in his CHP plan, effective November 1, 2017.

On November 30, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed 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 you are appealing your child's disenrollment from his CHP coverage, because you are concerned about incurring a tax penalty for the time he was without coverage in 2017.
- 2) According to your account, an updated application was submitted on behalf of your child on November 9, 2016. Your child was found CHP eligible and was enrolled into a plan, effective December 1, 2016.

- 3) Your account confirms that your mailing address was updated on November 9, 2016 to:
 - a. [REDACTED]
- 4) The November 10, 2016 eligibility determination and enrollment confirmation notices were addressed to the [REDACTED] and there is no record that those notices were returned as undeliverable.
- 5) In December 2016, NYSOH posted to your account several notices issued in October 2016 to your previous address that were returned as undeliverable in October 2016.
- 6) On December 28, 2016, NYSOH issued a notice indicating that it had received information from the U.S. Postal Service that your new mailing address was:
 - a. [REDACTED]
 - b. This notice was addressed to:
 - i. [REDACTED]
 - c. You testified that [REDACTED] has never been your mailing address and there is no record of it being a previous registered mailing address on your account.
- 7) On March 3, 2017, NYSOH issued a change of address notice indicating that you changed your mailing address to:
 - a. [REDACTED]
- 8) You testified you did not change your mailing address to [REDACTED]. [REDACTED] You testified that has never been your mailing address.
- 9) There are several notes in your account from March and April 2017 indicating that prior notices were "sent to the address in the Marketplace because it differed from the address in the notice."
- 10) Several returned notices were posted to your account in March 2017. The notices had originally been issued by NYSOH in October 2016

and resent to the [REDACTED]. They were marked as returned in January 2017.

- 11) In April 2017, the returned December 28, 2017 change of address notice was posted to your account.
- 12) On May 12, 2017, your mailing address was marked invalid by NYSOH.
- 13) On May 13, 2017, a returned notice dated October 17, 2016 was posted to your account. The notice had been resent to the [REDACTED] address and marked as returned on April 26, 2017.
- 14) Your child was determined ineligible for health coverage through NYSOH and disenrolled from his CHP plan, effective May 31, 2017, because your mailing address could not be confirmed.
- 15) The May 13, 2017 discontinuance and disenrollment notices were addressed to the [REDACTED] address and subsequently returned to NYSOH as undeliverable.
- 16) You testified that you moved to [REDACTED] on November 1, 2016 and lived there until May 15, 2017.
- 17) You testified your mailing address has never been [REDACTED] or [REDACTED]. You testified that you never changed your mailing address with NYSOH to either of those addresses.
- 18) None of the forwarding addresses placed on return mail by the US postal service included [REDACTED]; letters sent to that address were marked as "no such number."
- 19) You testified you moved to [REDACTED] in August 2017 and you have lived there since.
- 20) According to your account, you updated your account on September 21, 2017 and changed your mailing address to the [REDACTED] address.
- 21) You selected a new CHP plan for your child the same day and his coverage through that plan became effective on November 1, 2017.
- 22) Your child was without health coverage from June 2017 through October 2017. You testified your child does not have any outstanding medical bills from that time, but you are worried about incurring a tax penalty for the time he was without coverage.

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

Legal Analysis

The issue under review is whether NYSOH properly determined your child's eligibility for, and enrollment in, his Child Health Plus (CHP) coverage should end, effective June 1, 2017.

Pursuant to the regulations, 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.

Your account confirms that you updated your mailing address with NYSOH to [REDACTED] on November 9, 2016. You selected a CHP plan for your child the same day and his coverage became effective on December 1, 2016. There is no record of the November 10, 2016 eligibility determination or enrollment confrontation notices addressed to the [REDACTED] address being returned to NYSOH as undeliverable.

Subsequently, several notices issued to your prior address in October 2016 were returned to NYSOH as undeliverable in October 2016 and posted to your NYSOH account in December 2016. Also in December 2016, NYSOH issued a change of address notice confirm your mailing address change to [REDACTED]. However, this notice was addressed to [REDACTED]. You testified [REDACTED] has never been your mailing address and there is no record of it being a previous registered mailing address on your account. The December 28, 2016 change of address notice was subsequently returned to NYSOH as undeliverable.

Notes in your account from March 2017 indicate that that prior notices were "sent to the address in the Marketplace because it differed from the address in the notice." Subsequently, several returned notices were posted to your account in March 2017. The notices had originally been issued by NYSOH in October 2016 and resent to the [REDACTED] address.

In May 2017, a returned notice dated October 17, 2016 was posted to your account. The notice had been resent to the [REDACTED] and marked as returned on April 26, 2017. Subsequently, on May 12, 2017, your mailing address was marked invalid by NYSOH. As a result, NYSOH determined your child ineligible for health coverage through NYSOH and disenrolled him from his CHP plan, effective May 31, 2017. The resulting May 13, 2017 discontinuance and disenrollment notices were addressed to the [REDACTED] address and subsequently returned to NYSOH as undeliverable.

You credibly testified that you moved to the [REDACTED] on November 1, 2016 and lived there until May 15, 2017. This is corroborated by the fact that none of the notices issued to that mailing address were ever returned to NYSOH as undeliverable. You further testified that your mailing address has never been [REDACTED]. You testified you never changed your mailing address with NYSOH to either of those addresses. This testimony is corroborated by your account which confirms that these address changes were made by NYSOH and do not appear to be the result of any manual updates by you. Therefore, it is concluded that you properly updated your account with your correct mailing address in November of 2016 and the subsequent changes to

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your mailing address were improperly made without your knowledge or consent. As a result, NYSOH marked your mailing address as invalid on May 12, 2017, resulting in your child's disenrollment from his coverage.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent can act to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice.

The notice informing you of your child's disenrollment from his CHP coverage was dated on May 13, 2017, and is considered received five days later: May 18, 2017.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's CHP eligibility after the 15th of the month, any changes you would have made to your account would not have been effective until July 1, 2017, too late to prevent a gap in coverage.

Moreover, the discontinuance and disenrollment notices were addressed to the [REDACTED] address and subsequently returned to NYSOH as undeliverable. Since the evidence establishes that [REDACTED] was never your mailing address, that the address does not exist, and that your account was erroneously updated with that mailing address without your consent, it is concluded that NYSOH failed to provide you with notice that your child's CHP coverage was being terminated.

Additionally, the credible evidence supports a finding that your child has been a resident of New York State for the relevant periods, and that there was no substantive basis to find him ineligible for coverage through CHP.

Therefore, the Appeals Unit finds that NYSOH failed to provide you with adequate notice that your child's CHP coverage would end on May 31, 2017. Thus, the May 13, 2017 discontinuance and disenrollment notices must be RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan as early as June 1, 2017, if you so choose.

IRS Health Coverage Exemption

The record indicates that NYSOH's improper termination of your child's CHP coverage resulted in him being without insurance coverage for part of the 2017 coverage year. During the hearing, you testified that you are concerned about receiving a tax penalty for the time your child was without health coverage.

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Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2017 if you or your dependent did not have health coverage while you were waiting for an appeal decision about coverage eligibility or savings and your appeal was eventually successful.

You may wish to save this decision for reference when you file your tax return for 2017.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

Important: If you do not get a response from HHS to your exemption application in time to file your tax return, write the word “pending” in column “c” and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

Decision

The May 13, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan as early as June 1, 2017, if you so choose.

Effective Date of this Decision: January 18, 2018

How this Decision Affects Your Eligibility

Your child should not have been terminated from his coverage on May 31, 2017 due to mail being returned to NYSOH as undeliverable.

Your case is being sent back to NYSOH and you may choose to reinstate your child in his CHP coverage as early as June 1, 2017.

You will be responsible for applicable premium payments for any month your child is enrolled in coverage.

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Alternatively, you may be eligible to claim an exemption from the requirement to have health insurance for your child. Details regarding claiming an IRS health coverage exemption are provided above.

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 appeal 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
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

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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):

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- 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 May 13, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP plan as early as June 1, 2017, if you so choose.

Your child should not have been terminated from his coverage on May 31, 2017 due to mail being returned to NYSOH as undeliverable, when sent to an address you did not authorize.

Your case is being sent back to NYSOH and you may choose to reinstate your child in his CHP coverage as early as June 1, 2017.

You will be responsible for applicable premium payments for any month your child is enrolled in coverage.

Alternatively, you may be eligible to claim an exemption from the requirement to have health insurance for your child. Details regarding claiming an IRS health coverage exemption are provided above.

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 मददत चाहन्छि 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. yebctumi 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.

אִיִּישׁ (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.