



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

Notice of Decision

Decision Date: December 01, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022864

[REDACTED]

[REDACTED]

On November 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 19, 2017 plan enrollment notice, August 22, 2017 disenrollment notice, and September 23, 2017 plan enrollment 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 01, 2017

NY State of Health Account ID: [REDACTED]
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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 enrollment in their Child Health Plus (CHP) plan ended effective October 1, 2017?

Did NYSOH properly determine that your children's re-enrollment in their CHP plan were effective November 1, 2017?

Procedural History

On August 18, 2017, NYSOH issued an eligibility determination notice, based on your August 17, 2017 updated application, stating that your children were eligible to enroll in CHP with a \$9.00 monthly premium each for a limited time, effective October 1, 2017. The notice directed you to submit documentation of your household income by November 15, 2017, to confirm their eligibility.

On August 19, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan, effective October 1, 2017.

On August 22, 2017, NYSOH issued a notice, based on your August 21, 2017 updated application, stating that the income information in your application did not match what NYSOH received from state and federal data sources. The notice directed you to provide proof of income by September 5, 2017, for your children and by November 15, 2017 for yourselves.

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Also on August 22, 2017, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan ended on October 1, 2017, because your children were no longer eligible to enroll in CHP.

On September 18, 2017, NYSOH issued an eligibility determination notice, based on a September 17, 2017 systematic update, stating that your children were eligible to purchase a qualified health plan at full cost if they qualified for a special enrollment period, effective November 1, 2017.

On September 22, 2017, you submitted proof of your household income, which was verified by NYSOH that same day [REDACTED]

On September 23, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan, effective November 1, 2017.

On September 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the plan enrollment start date for your children insofar as it began your children's CHP coverage on November 1, 2017, and not September 1, 2017.

On June 23, 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.

Findings of Fact

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

- 1) According to your NYSOH account, upon updating your children's application for health insurance on August 17, 2017, they were found conditionally eligible for CHP. They were enrolled in a CHP plan that same day, effective October 1, 2017.
- 2) On August 21, 2017, you updated your children's application again and they were placed in pending Medicaid eligible status. As such, your children were disenrolled from their CHP plan and you were required to submit proof of income to determine their eligibility.
- 3) You testified that the NYSOH representative incorrectly calculated your income information when you updated your account on August 21, 2017. You believe this is the reason your children were placed in pending Medicaid status.
- 4) The application submitted on August 21, 2017, listed an annual household income of \$43,000.00, consisting of \$18,308.00 you receive in

employment income and \$24,692.00 your spouse receives in employment income.

- 5) On September 22, 2017, you submitted proof of your household income, which was verified by NYSOH that same day [REDACTED]
- 6) According to your NYSOH account, you updated your children's account and re-selected their CHP plan for enrollment on September 22, 2017.
- 7) You testified that you would like your children's CHP coverage to begin September 1, 2017 because you have medical bills for them from treatment in September 2017 and October 2017.
- 8) After the hearing, the Hearing Officer listened to the recording of your certified application counselor's (CAC) conversation with a NYSOH Customer Service agent on August 21, 2017. The following findings of fact are taken from that recording:
 - a. Your CAC informed the NYSOH agent that she was calling because she had entered your income incorrectly into your application and because of technical difficulties she could not correct the income in the application;
 - b. The CAC informed the NYSOH agent that the gross income listed in the eligibility determination notice was too high, because you do not expect to work the entire year at your job;
 - c. The CAC asked the NYSOH agent to help her complete the application;
 - d. The NYSOH agent stated that he could see that your application was almost complete and ran the application for an eligibility determination;
 - e. The agent advised your CAC that, although you and your spouse were found eligible for the Essential Plan, your children needed to submit proof of your household income to get an eligibility determination.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

Child Health Plus

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 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 first issue under review is whether NYSOH properly determined that your children's enrollment in their CHP plan ended effective October 1, 2017.

According to your NYSOH account, upon updating your children's application for health insurance on August 17, 2017, they were initially found eligible for CHP. They were enrolled in a CHP plan that same day, effective October 1, 2017.

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However, according to telephone call record dated August 21, 2017, and your testimony, the actions of your CAC resulted in changes to your household income that placed your children in a “pending Medicaid” status. Consequently, your children were disenrolled from their CHP coverage, effective October 1, 2017, and were no longer eligible for CHP.

Had the CAC not entered incorrect income information on August 21, 2017, it is reasonable to conclude that your children would not have been placed into a pending Medicaid status, and they would have remained enrolled in their CHP coverage.

Based on the foregoing, your children should not have been disenrolled from their CHP plan such that the August 22, 2017 disenrollment notice is **RESCINDED**.

The second issue under review is whether NYSOH properly determined that your children’s enrollment in their CHP coverage began on November 1, 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.

Since you initially enrolled your children in a CHP plan on August 17, 2017, your children’s enrollment in that CHP plan properly took effect on the first day of the second month following August 2017; that is on October 1, 2017.

Therefore, the August 19, 2017 plan enrollment notices stating that your children’s enrollment in their CHP plan was effective October 1, 2017, is correct and must be **AFFIRMED**.

Therefore, it follows that:

The September 23, 2017 plan enrollment notice is **MODIFIED** to state that your children’s enrollment in the CHP plan was effective October 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your children in their CHP plan for the month of October 2017.

Decision

The August 19, 2017 plan enrollment notice is **AFFIRMED**.

The August 22, 2017 disenrollment notice is **RESCINDED**.

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).

The September 23, 2017 plan enrollment notice is MODIFIED to state that your children's enrollment in the CHP plan was effective October 1, 2017.

Your case is RETURNED to NYSOH to reinstate your children in their CHP plan for the month of October 2017.

Effective Date of this Decision: December 01, 2017

How this Decision Affects Your Eligibility

Your children's enrollment in their CHP plan should have remained effective as of October 1, 2017.

Your case is being sent back to NYSOH to enroll your children in their CHP plan as of October 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for any premium payments for coverage provided in October 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

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).

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

The August 19, 2017 plan enrollment notice is AFFIRMED.

The August 22, 2017 disenrollment notice is RESCINDED.

The September 23, 2017 plan enrollment notice is MODIFIED to state that your children's enrollment in the CHP plan was effective October 1, 2017.

Your case is RETURNED to NYSOH to reinstate your children in their CHP plan for the month of October 2017.

Your children's enrollment in their CHP plan should have remained effective as of October 1, 2017.

Your case is being sent back to NYSOH to enroll your children in their CHP plan as of October 1, 2017. NYSOH will notify you once this has been done.

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).

You will be responsible for any premium payments for coverage provided in October 2017.

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&btumi ama wo obi a okyerε 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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