



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

Notice of Decision

Decision Date: December 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022889

[REDACTED]

[REDACTED]

On November 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 22, 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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Decision

Decision Date: December 07, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022889

[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 three youngest children's eligibility for, and enrollment in, their Child Health Plus (CHP) coverage should end, effective September 1, 2017?

Did NYSOH properly determine that your oldest child's eligibility for, and enrollment in, her Medicaid coverage should end, effective August 22, 2017 and August 31, 2017, respectively?

Procedural History

On August 1, 2017, you updated your NYSOH account.

On August 2, 2017, NYSOH issued a notice of eligibility determination stating that your oldest child continued to be eligible for Medicaid coverage, effective September 1, 2017. Your three youngest children were eligible for CHP with a monthly premium of \$9.00 each, effective September 1, 2017.

Also on August 2, 2017, NYSOH issued a notice of enrollment confirmation, confirming your oldest child's continuing enrollment in a Medicaid Managed Care plan, and your three youngest children's enrollment in a CHP plan, effective September 1, 2017.

On August 14, 2017, two of three notices sent to you at [REDACTED] on August 2, 2017, were returned to NYSOH as [REDACTED]

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undeliverable as addressed. No other notices sent to that address, either before or after August 2, 2017, have been returned to NYSOH as undeliverable.

On August 22, 2017, NYSOH issued a discontinuance notice, stating that your oldest child was no longer eligible to enroll in coverage through NYSOH, effective August 22, 2017, and your three youngest children were no longer eligible to enroll in coverage through NYSOH, effective September 2, 2017, because mail sent to you at the mailing address provided in your account had been returned to NYSOH as undeliverable.

Also on August 22, 2017, NYSOH issued a notice of disenrollment, stating that your oldest child's enrollment in her Medicaid coverage would end effective August 31, 2017. Your three youngest children's coverage in their CHP plan would end effective September 1, 2017.

On September 18, 2017, you updated your NYSOH account.

On September 19, 2017, NYSOH issued a notice of eligibility determination, stating that your oldest child was eligible for Medicaid, effective September 1, 2017, and that she needed to select a Medicaid Managed Care plan. Your three younger children were eligible to enroll in CHP with a \$9.00 monthly premium each, once you selected a plan, effective November 1, 2017.

That same day, NYSOH also issued a notice of enrollment confirmation, confirming your oldest child's reenrollment in her Medicaid Managed Care plan and your three youngest children's reenrollment in their CHP plan, effective November 1, 2017.

On September 28, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Medicaid and CHP coverage, which resulted in your children being uninsured for part of 2017.

On November 27, 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 that you are appealing your oldest child's disenrollment from her Medicaid Managed Care plan and your three youngest children's disenrollment from their CHP coverage for the months of September and October 2017.

- 2) Your NYSOH account indicates that you updated your account on August 1, 2017, and that your oldest child remained eligible for Medicaid and your three youngest children were eligible for CHP.
- 3) You testified that your address has been [REDACTED] since 2015, and that you have not had any issues receiving mail, apart from the two notices returned to NYSOH as undeliverable.
- 4) You testified that you live in a two-family building, but that each side has its own street number. The representative from NYSOH asked if there was a floor number, and you advised him you lived on the first floor, but that each residence had its own number. You did not ask for your address to be changed on your NYSOH account, nor did you authorize any such change.
- 5) On August 2, 2017, NYSOH issued three separate notices to you at [REDACTED] only two of the three notices were returned as undeliverable. There is no evidence in your account that would show that when the two letters were returned, your address was viewable through the envelope window.
- 6) On August 14, 2017, these notices were returned to NYSOH by the United States Post Office with a label stating, Return to Sender, Not Deliverable as Addressed, Unable to Forward. NYSOH uploaded these returned notices, to your NYSOH account on August 22, 2017.
- 7) Your NYSOH account reflects that, on August 21, 2017, a NYSOH agent marked your mailing address as invalid.
- 8) On August 22, 2017, NYSOH issued notices stating that your children were no longer eligible for coverage through NYSOH, and that they were being disenrolled from their plans. Your oldest child's eligibility ended August 22, 2017, and her Medicaid coverage would end August 31, 2017. Your youngest children's eligibility would end effective September 2, 2017, and their coverage would end as of September 1, 2017.
- 9) You testified that you do not know why those notices were returned, and you confirmed that your mailing address was [REDACTED]
- 10) You testified that you have not had any other address since 2015.
- 11) You testified that you have not had any problem receiving other notices from NYSOH, and your NYSOH account reflects that no other notices

sent to this mailing address have been returned to NYSOH as undeliverable.

- 12) You testified that you became aware of a problem with your children's coverage when you brought your son in for care, and you contacted NYSOH on [REDACTED] to correct the problem.
- 13) Your NYSOH account confirms that you updated your application and reenrolled your oldest child in Medicaid fee-for-service coverage effective September 1, 2017, and in her former Medicaid Managed Care plan effective November 1, 2017. Your three younger children were reenrolled in their CHP plan effective November 1, 2017.
- 14) You testified that you have medical expenses from the time your children were uninsured.

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 in order 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).

Medicaid Eligibility

Generally, most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as "continuous coverage" and is set based on the start date of the original or subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will remain eligible for and enrolled in her Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid Social Security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your three youngest children's eligibility for and enrollment in their Child Health Plus (CHP) coverage should end, effective September 1, 2017.

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.

On August 2, 2017, NYSOH sent three notices to you at your listed address. Two of the three notices were returned to NYSOH by the post office as undeliverable mail. As a result, NYSOH issued notices on August 22, 2017 stating that your three youngest children were no longer eligible to remain in CHP, and that they were disenrolled from their CHP plan after August 31, 2017.

You credibly testified that you have lived at the same address since 2015, and your mailing address has not changed since then. Additionally, you testified that you have received all other notices from NYSOH, including the August 22, 2017 notices at issue in this appeal. The record confirms that no other notices sent to this mailing address have been returned to NYSOH as undeliverable.

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Nevertheless, a NYSOH employee marked your mailing address as invalid on August 21, 2017, resulting in your children's disenrollment from their 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 children's disenrollment from their CHP coverage was dated on August 22, 2017, and is considered received five days later: August 27, 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 children's CHP eligibility after the 15th of the month, any changes you would have made to your account would not have been effective until October 1, 2017, too late to prevent a gap in coverage.

Additionally, the credible evidence supports a finding that your children have been residents of New York State for the relevant times, and that there was no substantive basis to find them ineligible for coverage through CHP.

Therefore, the Appeals Unit finds that NYSOH failed to provide you with sufficient notice that would have allowed you to act to prevent a gap in CHP coverage for your three youngest children, and that they should not have been disenrolled based on residency issues. The August 22, 2017 discontinuance and disenrollment notices therefore improperly disenrolled your three youngest children from coverage.

The second issue under review is whether NYSOH properly determined that your oldest child's eligibility for, and enrollment in, her Medicaid coverage should end, effective August 22, 2017 and August 31, 2017.

After mail sent to you was returned to NYSOH, NYSOH determined that your oldest child was no longer eligible to enroll in coverage through NYSOH and discontinued her Medicaid and MMC coverage. However, as noted above, your credible testimony is that you and your children lived continuously at the [REDACTED], and continue to live there to date. This testimony is supported by the fact that there is no evidence that any other mail sent to this address by NYSOH was ever returned as undeliverable. The return of only two of three pieces of mail sent to you on the same day should not have resulted in a gap in your child's coverage.

Therefore, the August 22, 2017 notices finding your children were no longer eligible to remain in their prior coverage and disenrolling them from that coverage were incorrect and are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your oldest child in her Medicaid Managed Care plan for September and October 2017, without any gap in coverage, and to reinstate your three youngest children in their CHP coverage for September and October 2017, without any gap in coverage.

Decision

The August 22, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your oldest child in her Medicaid Managed Care plan for September and October 2017 and to reinstate your three youngest children in their CHP coverage for September and October 2017.

Effective Date of this Decision: December 07, 2017

How this Decision Affects Your Eligibility

Your children should not have been terminated from their coverage due to mail being returned to NYSOH as undeliverable.

Your case is being sent back to NYSOH to reinstate your oldest child in her Medicaid Managed Care plan for September and October 2017, without any gap in coverage, and to reinstate your three youngest children in their CHP coverage for September and October 2017, without any gap in coverage.

You may owe an additional premium.

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

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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 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
PO Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The August 22, 2017 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your oldest child in her Medicaid Managed Care plan for September and October 2017 and to reinstate your three youngest children in their CHP coverage for September and October 2017.

Your children should not have been terminated from their coverage due to mail being returned to NYSOH as undeliverable.

Your case is being sent back to NYSOH to reinstate your oldest child in her Medicaid Managed Care plan for September and October 2017, without any gap in coverage, and to reinstate your three youngest children in their CHP coverage for September and October 2017, without any gap in coverage.

You may owe an additional premium.

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 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 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.

אִיִּדיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.