



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

Notice of Decision

Decision Date: January 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023113

[REDACTED]

On December 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 22, 2017 notice of disenrollment and the October 5, 2017 notice of enrollment confirmation.

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: January 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023113

[REDACTED]

Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review your appeal regarding the termination of your child's enrollment in her Child Health Plus plan for non-payment of premium, effective July 1, 2017?

Did NYSOH properly determine that your child's re-enrollment in her Child Health Plus plan was effective no earlier than November 1, 2017?

Procedural History

On August 1, 2017, NYSOH received an initial application for financial assistance with health insurance submitted on behalf of your child.

On August 2, 2017, NYSOH issued an eligibility determination notice stating your child was conditionally eligible for Child Health Plus (CHP) with a \$60.00 monthly premium, effective July 1, 2017. You were directed to submit proof of your child's Social Security number and citizenship status by October 30, 2017 to confirm her eligibility.

Also on August 2, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a CHP plan with a \$60.00 monthly premium, effective July 1, 2017.

Both the August 2, 2017 eligibility determination and enrollment confirmation notices spelled your child's first name as "[REDACTED]"

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).

On August 3, 2017, NYSOH received an updated application submitted on behalf of your child.

On August 4, 2017, NYSOH issued an eligibility determination notice stating your child was conditionally eligible for CHP with a \$60.00 monthly premium, effective July 1, 2017. You were directed to submit proof of your child's Social Security number and citizenship status by October 30, 2017 to confirm her eligibility.

Also on August 4, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a CHP plan with a \$60.00 monthly premium, effective July 1, 2017.

Both the August 4, 2017 eligibility determination and enrollment confirmation notices spelled your child's first name as [REDACTED]"

On September 22, 2017, NYSOH issued a disenrollment notice stating your child's CHP coverage was terminated, effective July 1, 2017, because you did not pay her insurance bill by the payment deadline.

On September 25, 2017, NYSOH received an updated application submitted on behalf of your child.

On October 1, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for CHP with a \$60.00 monthly premium, effective November 1, 2017.

On October 5, 2017, NYSOH issued an enrollment notice, based on your September 25, 2017 plan selection, confirming your child was enrolled in a CHP plan, effective November 1, 2017.

On October 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of your child's Child Health Plus plan insofar as it did not become effective on July 1, 2017.

On December 13, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to December 20, 2017 to allow you to submit supporting documentation. On December 12, 2017, the requested documentation was viewable in your NYSOH account and incorporated into the record as Appellant's Exhibit # 1. The record closed thereafter.

Findings of Fact

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

- 1) According to your account, your child was born on [REDACTED].
- 2) On August 1, 2017, your newborn child was added to your account over the phone.
- 3) Your account confirms that your child's first name was spelled [REDACTED] on the application submitted on her behalf that day.
- 4) You testified that the spelling of your child's name was not correct and was the result of an error on the part of the NYSOH representative updating your account.
- 5) Your child was determined conditionally eligible for CHP with a \$60.00 monthly premium. A CHP enrollment request was submitted on her behalf on August 1, 2017 and coverage through that plan was to become retroactively effective on the first day of the month of her birth, July 1, 2017.
- 6) The August 2, 2017 eligibility determination and enrollment confrontation notices contained your child's misspelled name.
- 7) You testified that you first realized your child's name had been misspelled when you received an invoice from your child's health plan dated August 2, 2017 containing the misspelled name.
- 8) Your account confirms that you contacted NYSOH on August 3, 2017 to correct the spelling of your child's first name to [REDACTED].
- 9) An updated application was submitted on behalf of your child that day with the correct spelling of her name.
- 10) Your child was determined conditionally eligible for CHP with a \$60.00 monthly premium, effective July 1, 2017.
- 11) The eligibility determination notice and the enrollment confirmation notice issued by NYSOH on August 4, 2017 contained the correct spelling of your child's name.
- 12) You testified that you were not willing to pay the premium to your child's health plan until you received an updated invoice from the health plan containing the correct spelling of your child's name.

- 13) You testified you did not receive an updated invoice from your child's health plan with the correct spelling of her name until after September 14, 2017.
- 14) On December 13, 2017 you uploaded a copy of an invoice from your child's health plan dated September 14, 2017 containing the correct spelling of her name.
- 15) You testified that you contacted your child's health plan on September 20, 2017 or September 21, 2017 to attempt to pay your child's outstanding premium payments for the first time. You testified that you were advised by the health plan that your child's coverage had already been terminated.
- 16) Your account confirms that your child's health plan initiated termination of your child's CHP coverage for non-payment of the premium on September 21, 2017.
- 17) Your child's CHP coverage was terminated back to July 1, 2017.
- 18) On September 25, 2017, NYSOH received an updated application submitted on behalf of your child. She was determined eligible for CHP, effective November 1, 2017.
- 19) Your account confirms that a CHP enrollment request was submitted on behalf of your child on September 25, 2017. This subsequent enrollment became effective on November 1, 2017.
- 20) You testified, and your account confirms, your child was without health coverage from birth to November 1, 2017.
- 21) You testified your child has outstanding medical bills from the months she was without health coverage.
- 22) You testified that you were not willing to pay the premium for a person that did not exist, that you were vigilant and called to correct the spelling of your child's name immediately, and that you should not be penalized for an agent error.

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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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).

Legal Analysis

The first issue is whether the Appeals Unit of NYSOH has the authority to review your appeal regarding the termination of your child's enrollment in her Child Health Plus plan for non-payment of premium.

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).

On August 1, 2017, your newborn child was added to your account over the phone. Your account confirms that your child's first name was spelled [REDACTED] on the application submitted on her behalf that day. You testified, and the evidence establishes, that the spelling of your child's name was not correct and was the result of an error on the part of the NYSOH representative updating your account.

The evidence further confirms that your account was updated again, two days later, on August 3, 2017 to correct the spelling of your child's first name to [REDACTED]. An updated application was submitted on behalf of your child that day with the correct spelling of her name. Your child was determined conditionally eligible for CHP with a \$60.00 monthly premium, effective July 1, 2017. The eligibility determination notice and the enrollment confirmation notice issued by NYSOH on August 4, 2017 contained the correct spelling of your child's name.

You testified that you were not willing to pay the premium to your child's health plan until you received an updated invoice containing the correct spelling of your child's name. You testified that you first contacted your child's health plan on September 20, 2017 or September 21, 2017, after you had received the corrected invoice, to attempt to pay your child's outstanding premium payments. You testified that you were advised by the health plan that your child's coverage had already been terminated.

Your account confirms that your child's health plan initiated termination of her coverage for non-payment of the premium on September 21, 2017. The disenrollment notice issued by NYSOH on September 22, 2017 confirms that your child's coverage was terminated back to July 1, 2017. You appealed that disenrollment contending that it was caused by an error on the part of NYSOH.

Pursuant to the regulations, the New York State of Health Appeals Unit only has the authority to review issues related to the following: (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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period

Although you testified your child's disenrollment was the result of an enrollment error by a NYSOH representative, your account confirms that this error was corrected by NYSOH within two days, on August 3, 2017. Your account further confirms that your child's health plan did not initiate termination of her coverage until September 21, 2017. It is concluded that any error on the part of NYSOH in your child's enrollment was rectified long before the child was disenrolled by her health plan. Therefore, the evidence establishes that your child was disenrolled from her CHP coverage due to non-payment of the premiums.

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Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your child was properly terminated from her health plan for non-payment of premiums. Therefore, your appeal of the September 22, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your child's re-enrollment in her CHP plan was effective no earlier than November 1, 2017.

Your account confirms that you first contacted NYSOH to reenroll your child in a CHP plan on September 25, 2017. Her coverage through this subsequent enrollment did not become effective until November 1, 2017. You appealed the effective date of this enrollment insofar as your child's coverage was not effective July 1, 2017.

According to the regulations, the date on which a CHP 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 selected a health plan for your child on September 25, 2017, after the 15th day of the month, that plan properly became effective the first day of the second following month; that is on November 1, 2017.

Therefore, the October 5, 2017 enrollment confirmation notice stating your child's enrollment in her CHP plan was effective November 1, 2017, is correct and is AFFIRMED.

Decision

Your appeal on the issue of disenrollment for non-payment of premium as described in the September 22, 2017 disenrollment notice is DISMISSED.

The October 5, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 22, 2018

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility or enrollment dates.

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 effective date of your child's Child Health Plus coverage is November 1, 2017.

Nothing in this decision is to be construed as to prevent your child's health plan from reinstating her coverage in accordance with its policies and procedures.

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 a portion of your case 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 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).

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

Your appeal on the issue of disenrollment for non-payment of premium as described in the September 22, 2017 disenrollment notice is **DISMISSED**.

The October 5, 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 is November 1, 2017.

Nothing in this decision is to be construed as to prevent your child's health plan from reinstating her coverage in accordance with its policies and procedures.

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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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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