



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: AP000000023258



On December 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 17, 2017 discontinuance notice, July 17, 2017 disenrollment notice, October 11, 2017 eligibility determination notice and October 11, 2017 enrollment confirmation 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 Date: January 22, 2018

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) provide you proper and adequate notice that your youngest child's eligibility for and enrollment in Child Health Plus terminated as of July 31, 2017?

Did NYSOH properly determine that your child's eligibility for and enrollment in her Child Health Plus plan was effective November 1, 2017?

Procedural History

On June 23, 2016, NYSOH issued a notice of eligibility determination, based on your June 22, 2016 application, stating that your youngest child was eligible for Child Health Plus effective August 1, 2016. Your youngest child was subsequently enrolled in a Child Health Plus plan.

On June 3, 2017, NYSOH issued a notice that it was time to renew your youngest child's health insurance. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your youngest child qualified for financial help paying for her coverage. The notice asked that you update the information in your account between June 16, 2017 and July 15, 2017 or the financial assistance your youngest child was receiving may end.

No updates were made to your account between June 16, 2017 and July 15, 2017.

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On July 17, 2017, NYSOH issued a discontinuance notice stating that effective August 1, 2017, your youngest child was no longer eligible for health insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

Also, on July 17, 2017, NYSOH issued a disenrollment notice stating that your youngest child's coverage through her Child Health Plus plan would end August 1, 2017 because you did not renew their health insurance coverage.

On October 10, 2017, NYSOH received your youngest child's updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that your youngest child was eligible for Child Health Plus and reenrolled your youngest child into a Child Health Plus plan, effective November 1, 2017.

Also, on October 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child Health Plus plan insofar as she did not have coverage for the months of August, September, and October 2017.

On October 11, 2017, NYSOH issued a notice of eligibility determination, based on your October 10, 2017 application, stating that your youngest child was eligible to enroll in Child Health Plus, effective November 1, 2017.

Also, on October 11, 2017, NYSOH issued a notice of enrollment, based on your plan selection on October 10, 2017, stating that your youngest child was enrolled in a Child Health Plus plan and that coverage would start on November 1, 2017.

On December 11, 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) You testified that you are only appealing your youngest child's disenrollment from her Child Health Plus plan for the months of August, September, and October 2017.
- 2) You testified that you previously received all of your notices from NYSOH by electronic alert.

- 3) You testified that you received the June 3, 2017 notice asking you to update your account, but that you did not receive the July 17, 2017 notices. You testified that you did not receive an alert by email.
- 4) The June 3, 2017 renewal notice does not indicate that your youngest child's Child Health Plus plan enrollment would be terminated if you failed to respond. The notice does state that your youngest child's financial eligibility may end.
- 5) You testified that you believed you had updated your youngest child's application in early June when you confirmed her enrollment in a Child Health Plus plan.
- 6) You testified that you became aware that your youngest child had been disenrolled from her Child Health Plus plan in October 2017 at the doctor's office.
- 7) You testified that when you became aware that your youngest child had been disenrolled you contacted NYSOH to reenroll her.
- 8) On October 10, 2017, NYSOH received your updated application and Child Health Plus plan selection.
- 9) You testified that you need your youngest child's Child Health Plus plan to begin on August 1, 2017 because you have outstanding bills for medical services rendered in August 2017 and October 2017.
- 10) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 11) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the July 17, 2017 discontinuance and disenrollment notices.

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

Applicable Law and Regulations

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Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, 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 Public Health Law § 2511(2)(a)-(e)).

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus 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 Child Health Plus

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coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The first issue under review is whether NYSOH provided you proper and adequate notice that your youngest child's eligibility for and enrollment in Child Health Plus terminated as of July 31, 2017.

Your youngest child was originally found eligible for Child Health Plus and enrolled effective August 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's June 3, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your youngest child qualified for financial help paying for her coverage. The notice asked that you update the information in your account between June 16, 2017 and July 15, 2017 or the financial assistance your youngest child was receiving may end.

Although you updated your youngest child's enrollment on June 6, 2017, no updates were made to your NYSOH account between June 16, 2017 and July 15, 2017.

On July 17, 2017, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective July 31, 2017. According to the discontinuance notice issued on July 17, 2017, this

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was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The June 3, 2017 renewal notice does not indicate that your youngest child's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your youngest child's coverage through her Child Health Plus plan would end in the July 17, 2017 discontinuance and disenrollment notices.

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 youngest child's Child Health Plus eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until August 31, 2017.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your youngest child, and the July 17, 2017 discontinuance and disenrollment notices are therefore MODIFIED to state that your youngest child's eligibility for and enrollment in her Child Health Plus plan ends on August 31, 2017.

The second issue is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in her Child Health Plus plan was effective November 1, 2017.

The record indicates that on October 10, 2017 you updated your NYSOH account and submitted an updated application for your youngest child. You enrolled her into a Child Health Plus plan the same day. You testified that you updated the account as soon as you were aware that your youngest child had been disenrolled from coverage.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on July 17, 2017. You credibly testified that you did not receive an electronic alert regarding the discontinuance and disenrollment notices. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that your youngest child's coverage would end.

Had you been properly notified regarding your youngest child's disenrollment from her Child Health Plus plan, you could have updated your application as early as July 17, 2017. Although you first updated your youngest child's eligibility for financial assistance through NYSOH on October 10, 2017, we must assume that this is the information that would have been used had you been properly informed of your youngest child's disenrollment.

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 would have been able to update your account as of July 17, 2017 with proper notice, your youngest child's eligibility for and enrollment in a Child Health Plus plan would have been effective on the first day of the second following month, or September 1, 2017.

Therefore, the October 11, 2017 notice of eligibility redetermination is MODIFIED to state that, effective September 1, 2017, your child is eligible to enroll in Child Health Plus, and the October 11, 2017 notice of enrollment confirmation is MODIFIED to state that your youngest child's enrollment in her Child Health Plus plan is effective September 1, 2017.

Decision

The July 17, 2017 discontinuance notice is MODIFIED to state that your youngest child was no longer eligible for Child Health Plus, effective August 31, 2017.

The July 17, 2017 disenrollment notice is MODIFIED to state that your youngest child's enrollment in a Child Health Plus plan would end on August 31, 2017.

The October 11, 2017 eligibility determination notice is MODIFIED to state that, effective September 1, 2017, your youngest child is eligible to enroll in Child Health Plus.

The October 11, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her Child Health Plus plan is effective September 1, 2017.

Your case is RETURNED to NYSOH to reinstate your youngest child into her Child Health Plus plan for the months of August, September, and October 2017, and to notify you accordingly.

Effective Date of this Decision: January 22, 2018

How this Decision Affects Your Eligibility

Your youngest child should not have been terminated from her Child Health Plus plan on July 31, 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your youngest child into her Child Health Plus effective August 1, 2017. NYSOH will notify you once this has been completed.

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 July 17, 2017 discontinuance notice is MODIFIED to state that your youngest child was no longer eligible for Child Health Plus, effective August 31, 2017.

The July 17, 2017 disenrollment notice is MODIFIED to state that your youngest child's enrollment in a Child Health Plus plan would end on August 31, 2017.

Your youngest child should not have been terminated from her Child Health Plus plan on July 31, 2017 because NYSOH failed to issue proper notice.

The October 11, 2017 eligibility determination notice is MODIFIED to state that, effective September 1, 2017, your youngest child is eligible to enroll in Child Health Plus.

The October 11, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her Child Health Plus plan is effective September 1, 2017.

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Your case is being sent back to NYSOH to reinstate your youngest child into her Child Health Plus effective August 1, 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



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).

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&etumi 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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