



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

Notice of Decision

Decision Date: October 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023389



Dear [REDACTED],

On October 23, 2017, you appeared by telephone at an expedited hearing on your appeal of NY State of Health's October 17, 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 NY State of Health 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
P.O. Box 11729
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Decision

Decision Date: October 25, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023389



Issue

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

Did the NY State of Health (NYSOH) properly determine your grandchildren's enrollment in their Child Health Plus plan was effective no earlier than December 1, 2017?

Procedural History

On October 16, 2017, NYSOH received your initial application for health insurance for your grandchildren. That day a preliminary eligibility determination was prepared finding your grandchildren eligible to enroll in Child Health Plus with a \$9.00 monthly premium. You selected a health plan for your grandchildren the same day.

Also on October 16, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of your grandchildren's Child Health Plus coverage insofar as it did not begin October 1, 2017.

On October 17, 2017, NYSOH issued an eligibility determination notice stating your grandchildren were eligible for Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2017.

Also on October 17, 2017, NYSOH issued an enrollment notice, based on your October 16, 2017 plan selection, confirming your grandchildren were enrolled in a Child Health Plus plan with coverage effective December 1, 2017.

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On October 18, 2017, NYSOH issued an eligibility determination notice, based on updated applications submitted on behalf of your grandchildren on October 17, 2017. That notice indicated your grandchildren were still eligible for Child Health Plus with a \$9.00 monthly premium, effective December 1, 2017. The notice further indicated that NYSOH “sent your information to your Local Department of Social Services to determine your [grandchildren’s] eligibility for Medicaid on a different basis... that considers both your income and certain deductions that were not applied by [NYSOH].”

On October 20, 2017, NYSOH issued an updated enrollment confirmation notice confirming your grandchildren’s enrollment in their Child Health Plus plan had been modified to November 1, 2017.

On October 23, 2017, you had an expedited telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. While under oath you waived your right to written notice of the hearing. The record was developed during the hearing and closed at the end of the hearing.

The Appeals Unit received a copy of a notice issued by the Allegany County Department of Social Services and that notice was marked as Hearing Officer’s Exhibit A and incorporated into the record.

Findings of Fact

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

- 1) You testified your grandchildren were covered by Medicaid through your Local Department of Social Services (LDSS) until September 30, 2017.
- 2) You testified you never received any notice from your LDSS that your grandchildren’s coverage was ending.
- 3) NYSOH received a copy of a July 5, 2017 notice from the Allegany County Department of Social Services purportedly issued to the mailing address listed on your NYSOH account. That notice stated that your LDSS would continue your grandchildren’s Medicaid coverage through October 1, 2017. The notice indicated that if you wanted your grandchildren to continue receiving healthcare coverage you would need to contact NYSOH between August 16, 2017 and September 15, 2017 to avoid a gap in coverage. A copy of this notice was uploaded to your NYSOH account on or about October 24, 2017.
- 4) You testified that you did not receive the July 5, 2017 notice from your LDSS and you were unaware that your grandchildren’s coverage was ending.

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- 5) According to your account, the first application for health insurance on behalf of your grandchildren was received by NYSOH on October 16, 2017.
- 6) That application indicated that neither you nor your grandchildren would file a tax return in 2017. The application further indicated that each of your three grandchildren receives a Social Security benefit payment of \$1,020.00 monthly. You testified that the information in the October 16, 2017 application was accurate and your grandchildren have been receiving Social Security benefits for over five years.
- 7) Your grandchildren were determined eligible to enroll in Child Health Plus with a \$9.00 monthly premium each, effective December 1, 2017.
- 8) You testified, and your account confirms, you selected a health plan for your grandchildren on October 16, 2017. Coverage though that plan was effective December 1, 2017.
- 9) You appealed the effective date of your grandchildren's Child Health Plus coverage insofar as their coverage was not effective on October 1, 2017.
- 10) Your account confirms that on October 19, 2017, NYSOH agreed to backdate your grandchildren's Child Health Plus coverage to November 1, 2017.
- 11) According to your account, your grandchildren have a gap in health coverage for the month of October 2017.

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

Applicable Law and Regulations

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

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 issue is whether NYSOH properly determined your grandchildren’s enrollment in their Child Health Plus plan through NYSOH was effective no earlier than December 1, 2017.

Your grandchildren were covered by Medicaid through your LDSS until September 30, 2017. Although you testified that you never received notice that your grandchildren’s coverage was ending, the record contains a notice purportedly issued by the Allegany County Department of Social Services on July 5, 2017 indicating your grandchildren were only covered by their Medicaid plan until October 1, 2017 and that you needed to contact NYSOH between August 16, 2017 and September 15, 2017 to avoid a gap in coverage. You testified you did not receive this notice.

In any event, any action or inaction on the part of your LDSS is outside the scope of authority of NYSOH’s Appeals Unit. Thus, NYSOH cannot determine whether your LDSS provided you with adequate notice that your grandchildren’s coverage was ending. It is further noted that you may have “fair hearing” rights regarding your contention that you did not receive adequate notice from your LDSS that

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your grandchildren's coverage was ending. However, you would have to contact the NYS Office of Temporary and Disability Assistance for information regarding requesting such a hearing.

Pursuant to the regulations, the date on which a Child Health Plus plan through NYSOH can take effect depends on the day a person selects the plan for enrollment.

You testified, and your account confirms, you first contacted NYSOH on October 16, 2017 to submit an application for health insurance on behalf of your grandchildren. Your grandchildren were determined eligible to enroll in Child Health Plus and you selected a plan for them the same day, October 16, 2017.

According to the regulations, 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 the evidence establishes that you selected a Child Health Plus plan for your grandchildren on October 16, 2017, after the fifteenth day of the month, according to the regulations coverage through that plan should have become effective on the first day of the second following month; that is, on December 1, 2017. However, it is noted that, according to your account, on October 19, 2017, NYSOH agreed to backdate your grandchildren's Child Health Plus coverage to November 1, 2017. The updated enrollment confirmation notice issued on October 20, 2017 confirms their enrollment start day was modified to November 1, 2017.

Accordingly, the October 17, 2017 enrollment confirmation notice is MODIFIED to reflect that your grandchildren's enrollment in their Child Health Plus plan became effective on November 1, 2017, as previously agreed by NYSOH.

It is noted that the record confirms that your grandchildren are each in receipt of a \$1,020.00 monthly Social Security benefit payment and those payments were included in the calculation of your grandchildren's household income; their eligibility was based on that income amount. However, you testified that your grandchildren have been receiving these payments for over five years and they were previously eligible for Medicaid through your LDSS. Although the October 18, 2017 eligibility determination notice issued by NYSOH indicated that it was referring your case to your LDSS to determine your grandchildren's eligibility for Medicaid on a different basis, you testified you have not heard anything from your LDSS regarding that referral. Therefore, your case is herein REFERRED to the Allegany County Department of Social Services to redetermine your grandchildren's eligibility for Medicaid.

Decision

The October 17, 2017 enrollment confirmation notice is MODIFIED to reflect that your grandchildren's enrollment in their Child Health Plus plan became effective on November 1, 2017.

Your case is REFERRED to the Allegany County Department of Social Services to redetermine your grandchildren's eligibility for Medicaid.

Effective Date of this Decision: October 25, 2017

How this Decision Affects Your Eligibility

The effective date of your grandchildren's Child Health Plus plan is November 1, 2017.

Your case is being sent back to your LDSS to redetermine your grandchildren's eligibility for Medicaid on a different basis than that used by NYSOH.

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 October 17, 2017 enrollment confirmation notice is MODIFIED to reflect that your grandchildren's enrollment in their Child Health Plus plan became effective on November 1, 2017.

Your case is REFERRED to the Allegany County Department of Social Services to redetermine your grandchildren's eligibility for Medicaid.

The effective date of your grandchildren's Child Health Plus plan is November 1, 2017.

Your case is being sent back to your LDSS to redetermine your grandchildren's eligibility for Medicaid on a different basis than that used by NYSOH.

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)

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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।

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 bɛtumi ama wo obi a okyerɛ 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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