



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

Notice of Decision

Decision Date: December 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023526

[REDACTED]

[REDACTED]

On December 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 30, 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
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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: December 15, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023526

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly determine that your child's eligibility for, and enrollment in, his Child Health Plus (CHP) coverage terminated effective September 30, 2017?

Procedural History

On October 26, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP with a monthly premium of \$30.00, effective December 1, 2016. He was subsequently enrolled into a CHP plan, beginning December 1, 2016.

On September 21, 2017, NYSOH issued a renewal notice, stating that it was time to renew your NYSOH coverage. The notice stated that, based on information available from state and federal data sources, NYSOH was unable to determine whether your child qualified for financial assistance with health insurance. The notice directed you to update your NYSOH account between October 16, 2017 and November 15, 2017, or the financial assistance your child was receiving could end.

On September 30, 2017, NYSOH issued a discontinuance notice, stating that your child was no longer eligible to enroll in health insurance through NYSOH, effective October 1, 2017. This was because mail sent to you at the mailing address in your account was returned to NYSOH as undeliverable.

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Also on September 30, 2017, NYSOH issued a disenrollment notice, stating that your child was disenrolled from his CHP plan, effective September 30, 2017, because he was no longer eligible to enroll in health insurance through NYSOH.

On October 19, 2017, you updated your NYSOH account. This included an update to your mailing and residential address. That same day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible to enroll in CHP for a limited time with a monthly premium of \$30.00, effective December 1, 2017.

That same day, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their CHP coverage in the months of October and November 2017.

On October 20, 2017, NYSOH issued a notice of eligibility determination, stating that your child was eligible to enroll in CHP for a limited time with a \$30.00 monthly premium, effective December 1, 2017.

Also on October 20, 2017, NYSOH also issued a notice of enrollment confirmation, confirming your child's enrollment in a CHP plan, beginning December 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 appealing your child's disenrollment from his CHP plan for the months of October and November 2017.
- 2) Your child was found eligible for, and enrolled into, CHP, effective December 1, 2016.
- 3) NYSOH sent you a notice stating that it was time to renew your child's eligibility for health insurance coverage. That notice was sent to you at [REDACTED], the address listed in your NYSOH account.
- 4) On September 28, 2017, this notice was sent back to NYSOH by the post office as returned mail, with a sticker affixed to the envelope stating, "Return to Sender, Not Deliverable As Addressed, Unable To Forward" ([REDACTED]).

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- 5) On September 29, 2017, NYSOH marked your mailing address as “invalid” in your NYSOH account, and redetermined your child’s eligibility for coverage.
- 6) On September 30, 2017, NYSOH issued a notice stating that your child was no longer eligible for coverage through NYSOH because mail that was sent to you was returned as undeliverable, and his eligibility and enrollment in his CHP coverage ended on September 30, 2017.
- 7) You testified that you moved at the end of August 2017.
- 8) You testified that you did not notify NYSOH of your new address when you moved.
- 9) You testified that your child’s health plan was aware of your new address, and you received mail from his plan, so you assumed that NYSOH was also aware of the move.
- 10) You testified that you discovered that your child had been disenrolled from his coverage because you took him for [REDACTED] procedure on [REDACTED], and when you went to fill a prescription after the procedure, you were told that he did not have coverage.
- 11) You testified that you had called his health plan prior to the procedure and were told that his coverage was active, and that you actually had a credit with regard to his premium payments.
- 12) You testified that your health plan advised you to call NYSOH, and NYSOH informed you that your child had been disenrolled because mail that was sent to you by NYSOH was returned.
- 13) You testified that you immediately updated your address and your account with NYSOH.
- 14) Your NYSOH account reflects that you made updates on October 19, 2017, including updating your mailing address, and that you re-enrolled your child into his CHP coverage that same day.
- 15) Your NYSOH account reflects that your child’s re-enrollment began on December 1, 2017.
- 16) You testified that you are now anticipating a large bill from your child’s [REDACTED] procedure, and that you would have postponed that procedure if you had known that he did not have coverage.

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 (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 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for, and enrollment in, his CHP coverage terminated, effective September 30, 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 September 21, 2017, NYSOH sent a renewal notice to the mailing address in your account: [REDACTED] This notice was returned to NYSOH by the post office as undeliverable mail. As a result, NYSOH issued notices on September 30, 2017 stating that your child was no longer eligible to remain in CHP, and that he was disenrolled from his CHP plan as of September 30, 2017.

You testified that you moved to a new address in late August 2017, and that you did not notify NYSOH of your change of address. You testified that your child's CHP plan was aware of your new address, and that you received mail from his plan, so you presumed that NYSOH had your new address as well. However, NYSOH did not have this information and, since mail sent to you was returned as undeliverable, NYSOH could not confirm your child's NY State residency. For this reason, NYSOH properly determined to discontinue your child's eligibility and enrollment in his CHP coverage.

However, when NYSOH denies, terminates, or suspends a child's CHP 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 notice informing you of your children's disenrollment from his CHP coverage was dated September 30, 2017, and is considered received five days later; October 5, 2017. The notice indicated that the termination of your child's coverage was effective September 30, 2017.

Since NYSOH's notice was issued on September 30, 2017 – the same day that it went into effect – NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child. The fact that you did not receive the notice because you had failed to update your address is immaterial here, as the notice itself was insufficient, and would not have left you with time to prevent the termination of your child's coverage even if you had received it.

Therefore, the September 30, 2017 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child in his CHP plan for the months of October and November 2017.

You will be responsible for any outstanding premium payments that result from placing your child back into coverage for these two months.

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).

Decision

The September 30, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his CHP coverage for the months of October and November 2017.

Effective Date of this Decision: December 15, 2017

How this Decision Affects Your Eligibility

NYSOH failed to provide you with sufficient notice of the discontinuance and disenrollment of your child's CHP coverage.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of October and November 2017.

You will be responsible for any outstanding CHP premiums that result from placing your child back into coverage.

Reminder: You must report any changes in your household to NYSOH, including a change of address, within 30 days of such change.

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:

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).

- 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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 30, 2017 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child in his CHP coverage for the months of October and November 2017.

NYSOH failed to provide you with sufficient notice of the discontinuance and disenrollment of your child's CHP coverage.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of October and November 2017.

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 outstanding CHP premiums that result from placing your child back into coverage.

Reminder: You must report any changes in your household to NYSOH, including a change of address, within 30 days of such change.

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।

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).

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 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.