



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

Notice of Decision

Decision Date: January 25, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000023794

[REDACTED]

Dear [REDACTED]

On December 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2017 discontinuance and disenrollment notices and October 4, 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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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) properly determine that your children's enrollment in Child Health Plus and your enrollment in an Essential Plan ended effective September 30, 2017?

Did NYSOH properly determine that your children's reenrollment in Child Health Plus and you and your spouse's reenrollment in a qualified health plan began no earlier than November 1, 2017?

Procedural History

On January 28, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse remained enrolled in an Essential Plan, effective January 1, 2016. The notice also stated that your two youngest children remained enrolled in a Child Health Plus plan, effective September 1, 2016.

On April 9, 2017, NYSOH issued a disenrollment notice stating that your spouse's enrollment in an Essential Plan was ending effective February 28, 2017 because you did not pay your insurance bill by the payment deadline.

On August 2, 2017, NYSOH issued a notice that it was time to renew your health insurance for the upcoming coverage year. That notice stated that based on information from federal and state sources, NYSOH could not determine whether you would qualify for financial help paying for your health coverage, and that you

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needed to update your account by September 15, 2017 or you might lose the financial assistance you were currently receiving.

No updates were made to your NYSOH account by September 15, 2017.

On September 16, 2017, NYSOH redetermined your eligibility.

On September 17, 2017, NYSOH issued a discontinuance notice stating your household was not eligible for health insurance through NYSOH because you did not respond to the renewal notice within the required timeframe, effective October 1, 2017.

Also on September 17, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage and your two children's Child Health Plus coverage was ending effective September 30, 2017.

On September 18, 2017, you updated your NYSOH account attesting to an annual household income of \$73,000.00.

On September 19, 2017, NYSOH issued a notice of eligibility determination, based on your September 18, 2017 application, stating that you and your spouse were eligible to receive up to \$320.00 per month in advance payments of the premium tax credit (APTC) and your two children were eligible for Child Health Plus, both effective November 1, 2017.

On September 21, 2017, you updated your NYSOH account attesting to an annual household income of \$67,400.00.

On October 2, 2017, NYSOH issued an eligibility determination notice, stating that your children were eligible for Child Health Plus and you and your spouse were eligible for a qualified health plan with APTC in the amount of \$406.00 per month, effective November 1, 2017.

NYSOH records reflect that you selected health plans for you, your spouse and your two youngest children on October 3, 2017.

On October 4, 2017, NYSOH issued an enrollment notice, confirming your children's enrollment in Child Health Plus with a monthly premium of \$30.00 per month each and you and your spouse's enrollment in a qualified health plan with APTC, effective November 1, 2017.

On October 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in Child Health Plus and you and your spouse's enrollment in a qualified health plan with APTC insofar as they did not begin on October 1, 2017.

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On December 19, 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) On January 28, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse remained enrolled in an Essential Plan, effective January 1, 2016. The notice also stated that your two youngest children remained enrolled in a Child Health Plus plan, effective September 1, 2016.
- 2) NYSOH records reflect that your spouse was disenrolled from an Essential Plan for non-payment of a premium, effective February 28, 2017.
- 3) On August 2, 2017, NYSOH issued a renewal notice stating that you needed to update your account by September 15, 2017 or you might lose the financial assistance you were currently receiving.
- 4) NYSOH records reflect that no updates were made to your NYSOH account by September 15, 2017.
- 5) On September 16, 2017, NYSOH redetermined your eligibility.
- 6) On September 17, 2017, NYSOH issued a discontinuance notice stating your household was not eligible for health insurance through NYSOH because you did not respond to the renewal notice within the required timeframe, effective October 1, 2017.
- 7) On September 17, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage and your two children's Child Health Plus coverage was ending effective September 30, 2017.
- 8) You testified that you attempted to update your NYSOH account before the deadline September 15, 2017.
- 9) You testified that you accessed your online NYSOH account on September 11, 2017 to update your NYSOH account but that your computer froze and that you were unable to.
- 10) You testified that you attempted to update your NYSOH account online on September 11, 2017 from several computers in your house but were unable to.

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- 11) NYSOH records do not reflect any evidence of a system defect on September 11, 2017.
- 12) You testified that you were unable to provide any proof of your attempts to update your account or select a health plan on September 11, 2017.
- 13) According to your NYSOH account, you accessed your account online on September 18, 2017 and submitted an updated application to NYSOH for financial assistance.
- 14) On September 19, 2017, NYSOH issued a notice of eligibility determination, based on your September 18, 2017 application, stating that you and your spouse were eligible to receive APTC in the amount of \$320.00 per month and your two children were eligible for Child Health Plus, effective November 1, 2017.
- 15) On September 21, 2017, you updated your NYSOH account attesting to an annual household income of \$67,400.00.
- 16) On October 2, 2017, NYSOH issued an eligibility determination notice, stating that your children were eligible for Child Health Plus and you and your spouse were eligible for a qualified health plan with APTC in the amount of \$406.00 per month, effective November 1, 2017.
- 17) According to your NYSOH account, you selected and enrolled in Child Health Plus and a qualified health plan on October 3, 2017.
- 18) On October 4, 2017, NYSOH issued an enrollment notice, based on your plan selection on October 3, 2017, confirming your children's enrollment in Child Health Plus with a monthly premium of \$30.00 per month each and you and your spouse's enrollment in a qualified health plan with APTC, effective November 1, 2017.
- 19) You testified that you were not appealing your oldest daughter's eligibility and enrollment as she was determined eligible for Medicaid for the month of October 2017.
- 20) You testified that you are appealing the start date of your two youngest children's enrollment in Child Health Plus and you and your spouse's enrollment in a qualified health plan with APTC insofar as you, your spouse and two children had a gap in 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

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).

Enrollment in a Qualified Health Plan

The effective date of coverage by a qualified health plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The first issue is whether NYSOH properly determined that your children’s enrollment in Child Health Plus and you and your spouse’s enrollment in a qualified health plan with APTC ended September 30, 2017.

On January 28, 2017, NYSOH issued an enrollment confirmation notice stating that you and your spouse remained enrolled in an Essential Plan, effective January 1, 2016. The notice also stated that your two youngest children remained enrolled in a Child Health Plus plan, effective September 1, 2016.

NYSOH records reflect that your spouse was disenrolled from an Essential Plan for non-payment of a premium, effective February 28, 2017.

On August 2, 2017, NYSOH issued a renewal notice stating that you needed to update your account by September 15, 2017 or you might lose the financial assistance you were currently receiving.

NYSOH records reflect that no updates were made to your NYSOH account by September 15, 2017.

On September 16, 2017, NYSOH redetermined your eligibility.

On September 17, 2017, NYSOH issued a discontinuance notice stating your household was not eligible for health insurance through NYSOH because you did not respond to the renewal notice within the required timeframe, effective October 1, 2017.

Also on September 17, 2017, NYSOH issued a disenrollment notice stating that your Essential Plan coverage and your two children's Child Health Plus coverage was ending effective September 30, 2017.

You testified that you attempted to update your NYSOH account before the deadline September 15, 2017. You testified that you accessed your online NYSOH account on September 11, 2017 to update your NYSOH account but that your computer froze and that you were unable to. You testified that you attempted to update your NYSOH account online on September 11, 2017 from several computers in your house but were unable to.

However, NYSOH records do not reflect any evidence of a system defect on September 11, 2017 and NYSOH records reflect that you first accessed your online account on September 18, 2017 and subsequently on September 21, 2017, which were both after the deadline of September 15, 2017. In addition, you testified that you had no evidence of your attempts to update your NYSOH account online on September 11, 2017.

Therefore, there is insufficient corroborating evidence to find that you were unable to update your NYSOH account or select health plans for your household on September 11, 2017 due to a NYSOH system defect and the September 17, 2017 discontinuance notice and disenrollment notice are AFFIRMED.

The second issue under review is whether NYSOH properly determined that your children's reenrollment in Child Health Plus and you and your spouse's reenrollment in a qualified health plan began no earlier than November 1, 2017.

According to your NYSOH account, you selected and enrolled your two children in Child Health Plus and you and your spouse in a qualified health plan on October 3, 2017.

The date on which enrollment in a Child Health Plus plan or a qualified health plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

Since you selected Child Health Plus plans for your children and a qualified health plan for you and your spouse on October 3, 2017, the plans would properly take effect on the first day of the next month; that is, on November 1, 2017.

Therefore, the October 4, 2017 enrollment confirmation notice is AFFIRMED.

Decision

The September 17, 2017 discontinuance notice is AFFIRMED.

The September 17, 2017 disenrollment notice is AFFIRMED.

The October 4, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 25, 2018

How this Decision Affects Your Eligibility

This decision does not affect your two children's Child Health Plus eligibility.

This decision does not affect you and your spouse's qualified health plan eligibility.

The effective date of your children's Child Health Plus plans and you and your spouse's qualified health plan is November 1, 2017.

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 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 U.S. Department of Health and Human Services. 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 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

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Summary

The September 17, 2017 discontinuance notice is AFFIRMED.

The September 17, 2017 disenrollment notice is AFFIRMED.

The October 4, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not affect your two children's Child Health Plus eligibility.

This decision does not affect you and your spouse's qualified health plan eligibility.

The effective date of your children's Child Health Plus plans and you and your spouse's qualified health plan is November 1, 2017.

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، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا 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।

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 srɛ wo, frɛ 1-855-355-5777. yɛbɛtumi 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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