



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

Notice of Decision

Decision Date: January 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024101

[REDACTED]

[REDACTED]

On January 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 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.

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Decision

Decision Date: January 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024101



Issue

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your oldest three children's eligibility for and enrollment in Child Health Plus terminated as of September 30, 2017?

Procedural History

On September 7, 2016, NYSOH issued a notice of eligibility determination, based on your September 6, 2016 application, stating that your oldest three children were eligible for Child Health Plus effective October 1, 2016. Your children were subsequently enrolled in a Child Health Plus plan.

On August 17, 2017, NYSOH issued a notice that it was time to renew your oldest three children's health insurance for 2018. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether your oldest three children qualified for financial help paying for their coverage. The notice asked that you update the information in your account between August 16, 2017 and September 15, 2017 and if you miss this deadline, your children were in danger of losing coverage and financial assistance.

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

On September 17, 2017, NYSOH issued a discontinuance notice stating that effective October 1, 2017, your oldest three children were no longer eligible for health insurance through NYSOH because you did not respond to the renewal

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notice and did not complete the renewal in the required time frame. As a result, your three oldest children no longer qualified to receive financial assistance.

Also on September 17, 2017, NYSOH issued a disenrollment notice stating that your oldest three children's coverage through their Child Health Plus plan would end September 30, 2017, because you did not renew their health insurance coverage.

On September 27, 2017, NYSOH received your children's updated application for health insurance.

On September 28, 2017, NYSOH issued a notice of enrollment, based on your plan selection on September 27, 2017, stating that your oldest three children were enrolled in a Child Health Plus plan and that coverage would start on November 1, 2017.

On October 1, 2017, NYSOH issued a notice of eligibility determination, based on your September 27, 2017 application, stating that your oldest three children were eligible to enroll in Child Health Plus with a \$30.00 monthly premium, effective November 1, 2017.

On November 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your oldest three children's Child Health Plus plan insofar as they did not have coverage for the month of October 2017.

On January 25, 2018, 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 oldest three children's disenrollment from their Child Health Plus plan for the month of October 2017.
- 2) You testified, and your NYSOH account reflects, that you have elected to receive your notices from NYSOH by regular mail.
- 3) You testified that you did not receive the August 17, 2017 by regular mail.
- 4) You testified that a NYSOH Marketplace representative told you that that the August 17, 2017 renewal notice was sent to you by email.

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- 5) You testified that you have never received your notices from NYSOH by email. Your NYSOH account does not contain an email address.
- 6) The August 17, 2017 renewal notice does not indicate that your children were in danger of losing coverage and financial assistance but it does not state that their coverage would terminate if you did not respond.
- 7) You testified that you became aware that your oldest three children had been disenrolled from their Child Health Plus plan at the end of September 2017.
- 8) You testified that when you became aware that your oldest three children had been disenrolled you immediately contacted NYSOH to reenroll them.
- 9) On September 27, 2017, NYSOH received your updated application and Child Health Plus plan selection.

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 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

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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 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).

Legal Analysis

The issue under review is whether NYSOH provided you proper and adequate notice that your oldest three children's eligibility for and enrollment in Child Health Plus terminated as of September 30, 2017.

Your oldest three children were originally found eligible for Child Health Plus and enrolled effective October 1, 2016.

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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 August 17, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by September 15, 2017 or the financial assistance your children were receiving may end.

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

On September 17, 2017, NYSOH issued a disenrollment notice stating that your oldest three children's coverage in their Child Health Plus plan would end effective September 30, 2017. According to the discontinuance notice issued on September 17, 2017, this 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.

You testified that you did not receive the August 17, 2017 renewal notice by regular mail. You testified that a NYSOH representative told you that the notice was issued to you by email. You also testified, and your NYSOH account reflects, that you receive your notices from NYSOH by regular mail and you do not have an email address on file in your NYSOH account. Regardless of whether you received the August 17, 2017 renewal notice, that notice is inadequate because it does not indicate that your oldest three children's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your children's coverage through their Child Health Plus plan would end in the September 17, 2017 discontinuance and disenrollment notices.

The record indicates that on September 27, 2017 you updated your NYSOH account and submitted an updated application for your three oldest children. You testified that you updated the account as soon as you received the notice that your three oldest children had been disenrolled from coverage.

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 three oldest children's Child Health Plus eligibility after the 15th of the month of September, any changes you would have

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made to your account to prevent a gap in coverage would not have been effective until November 1, 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 three oldest children for the month of October 2017 and the September 17, 2017 discontinuance and disenrollment notices are RESCINDED.

Decision

The September 17, 2017 discontinuance notice is RESCINDED.

The September 17, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your three oldest children [REDACTED], and [REDACTED] into their Child Health Plus plan for the month of October 2017, and to notify you accordingly.

Effective Date of this Decision: January 30, 2018

How this Decision Affects Your Eligibility

Your three oldest children should not have been terminated from their Child Health Plus plan in October 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your three oldest children [REDACTED], and [REDACTED] into their Child Health Plus for the month of October 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.

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

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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 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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

The September 17, 2017 discontinuance notice is **RESCINDED**.

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The September 17, 2017 disenrollment notice is RESCINDED.

Your three oldest children should not have been terminated from their Child Health Plus plan in October 2017 because NYSOH failed to issue proper notice.

Your case is RETURNED to NYSOH to reinstate your three oldest children [REDACTED], and [REDACTED] into their Child Health Plus plan for the month of October 2017, and to notify you accordingly.

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:



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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