



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

Notice of Decision

Decision Date: January 31, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024378

[REDACTED]

[REDACTED]

On January 26, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's July 26, 2017 discontinuance notice, July 26, 2017 disenrollment notice, November 16, 2017 eligibility determination, and November 16, 2017 enrollment 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.

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's (NYSOH) July 26, 2017 discontinuance and disenrollment notices timely?

Did NY State of Health properly determine that your youngest child's enrollment in her Child Health Plus plan was effective December 1, 2017?

Procedural History

On April 21, 2017, your youngest child was added to your NYSOH account and an application was submitted on her behalf.

On April 22, 2017, NYSOH issued a notice of eligibility determination stating that your youngest child was conditionally eligible to enroll in Child Health Plus with a \$15.00 monthly premium, effective April 1, 2017. The notice requested that you provide documentation confirming your youngest child's citizenship and social security number before July 20, 2017.

Also on April 22, 2017, NYSOH issued a notice of eligibility determination confirming your youngest child's enrollment in a Child Health Plus plan, effective April 1, 2017.

On July 26, 2017, NYSOH issued a discontinuance notice stating that your youngest child was no longer eligible for health insurance through NYSOH,

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effective August 1, 2017, because you did not confirm her citizenship status or social security number within the required timeframe.

Also on July 26, 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, because she is no longer eligible to enroll in health insurance through NYSOH.

On November 15, 2017, your youngest child's social security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that your youngest child was eligible to enroll in Child Health Plus and you selected a plan for her enrollment.

Also on November 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your youngest child's Child health Plus plan because it did not start on August 1, 2017.

On November 16, 2017, NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in Child Health Plus with a \$15.00 monthly premium, effective December 1, 2017.

Also on November 16, 2017, NYSOH issued an enrollment confirmation notice stating that your youngest child was enrolled in a Child Health Plus plan, effective December 1, 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 appealing only your youngest child's enrollment in her Child Health Plus plan.
- 2) You testified, and your NYSOH account reflects, that you have elected to receive your notices from NYSOH by regular mail.
- 3) You testified, and your NYSOH account reflects, [REDACTED].
- 4) The record indicates that your youngest child was added to your NYSOH account on April 21, 2017. The application that was submitted that day indicates that she is a U.S. Citizen but that she did not have a social security number because you were in the process of applying for one.

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- 5) On April 22, 2017 NYSOH sent an eligibility determination notice to [REDACTED]. That notice stated that your youngest child was conditionally eligible for Child Health Plus, and that you needed to confirm her citizenship and social security number by July 20, 2017.
- 6) No updates were made to your NYSOH by July 20, 2017 eligibility determination notice.
- 7) On July 26, 2017, NYSOH sent a discontinuance notice and a disenrollment notice to [REDACTED]. These notices stated that your youngest child's eligibility and enrollment in Child Health Plus ended July 31, 2017.
- 8) You testified that you did not receive the April 22, 2017 eligibility determination notice, the July 26, 2017 discontinuance notice, or the July 26, 2017 disenrollment notice.
- 9) Your NYSOH account does not contain any notices returned to NYSOH as undeliverable.
- 10) You testified that you did not know your youngest child had been disenrolled from her Child Health Plus plan until November 2017 when you started receiving medical bills for your youngest child.
- 11) The record indicates that your youngest child's social security number was added to your NYSOH account on November 15, 2017.
- 12) The record indicates that you submitted an application to NYSOH for health insurance for your youngest child, and enrolled her into a Child Health Plus plan on November 15, 2017.
- 13) You testified that you received both the November 16, 2017 eligibility determination notice and the November 16, 2017 enrollment confirmation notice from NYSOH addressed to [REDACTED]. [REDACTED] were sent in November 2017.
- 14) You testified that you are requesting your youngest child's Child Health Plus plan to begin on August 1, 2017, because you have outstanding medical bills for treatment she received.
- 15) You testified that you believe your youngest child should not have been disenrolled from her Child Health Plus plan because you did not receive proper notice to prevent the disenrollment.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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 first issue is whether your appeal of NYSOH's July 26, 2017 discontinuance notice and July 26, 2017 disenrollment notice was timely.

For an appeal to be valid, it must be filed within sixty (60) days of the date of the notice of determination by NYSOH. In this case, NYSOH issued a discontinuance notice and disenrollment notice on July 26, 2017. Therefore, for an appeal to be valid, it should have been filed by September 24, 2017.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your youngest child's disenrollment from her Child Health Plus plan on November 15, 2017, which is beyond the 60-day deadline.

You testified that you did not receive proper notice because you did not receive the April 22, 2017 eligibility determination notice stating you needed to update your youngest child's social security number by July 20, 2017, or the July 26, 2017 discontinuance notice, or the July 26, 2017 disenrollment notice, terminating her Child Health Plus plan. As a result, you did not know you had to update your youngest child's social security information and so she was disenrolled from Child Health Plus and incurred medical bills.

However, the record reflects that the April 22, 2017 notice and both July 26, 2017 notices were sent to [REDACTED]. You testified that this address is correct, and that you received notices from NYSOH at this address in November 2017. Additionally, your NYSOH account does not reflect that any notices have been returned as undeliverable. There is no evidence in the record to suggest that NYSOH failed to notify you of your youngest child's disenrollment from her Child Health Plus plan.

Since the record reflects that NYSOH notified you that your youngest child's disenrollment from her Child Health Plus plan, and because your appeal was filed more than 60-days after the July 26, 2017 discontinuance notice and July 26, 2017 disenrollment notice were issued, your appeal of these notices is untimely and is therefore **DISMISSED**.

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

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The record reflects that you contacted NYSOH on November 15, 2017 and enrolled your youngest child into a Child Health Plus plan that same day. Your youngest child's eligibility for, and enrollment in, her Child Health Plus plan began December 1, 2017.

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 enrolled your youngest child into a Child Health Plus plan on November 15, 2017, her enrollment would properly begin on the first day of the following month, that is on December 1, 2017.

Therefore, the November 16, 2017 eligibility determination and enrollment confirmation notices stating that your youngest child's enrollment in her Child Health Plus plan was effective December 1, 2017, is correct and must be AFFIRMED.

Decision

Your appeal of the July 26, 2017 discontinuance notice and the July 26, 2017 disenrollment notice is DISMISSED.

The November 16, 2017 eligibility determination notice and enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: January 31, 2018

How this Decision Affects Your Eligibility

This decision does not change your youngest child's eligibility.

Your youngest child was disenrolled from Child Health Plus, effective July 31, 2017.

The effective date of your youngest child's Child Health Plus plan is December 1, 2017.

If You Disagree with this Decision (Appeal Rights)

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).

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
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:
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- By fax: 1-855-900-5557

Summary

Your appeal of the July 26, 2017 discontinuance notice and the July 26, 2017 disenrollment notice is **DISMISSED**.

Your youngest child was disenrolled from Child Health Plus, effective July 31, 2017.

This decision does not change your youngest child's eligibility.

The November 16, 2017 eligibility determination notice and enrollment confirmation notice is **AFFIRMED**.

The effective date of your youngest child's Child Health Plus plan is December 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، 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. y&b&tumi ama wo obi a okyer& 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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