



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

Notice of Decision

Decision Date: March 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025079

[REDACTED]

Dear [REDACTED]

On January 26, 2018, your spouse, [REDACTED] (acting as your Authorized Representative), appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 2017 eligibility determination 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
PO 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(b).

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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Decision

Decision Date: March 5, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025079

[REDACTED]

Issue

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

Did New York State of Health (NYSOH) properly terminate your older child's Child Health Plus coverage, effective November 30, 2017?

Procedural History

On May 18, 2017, NYSOH issued an eligibility determination notice stating that your older child was eligible for Child Health Plus (CHP) for a limited time with a \$15.00 monthly premium, effective July 1, 2017. You were requested to provide proof of your household income by July 16, 2017.

Also on May 18, 2017, NYSOH issued an enrollment notice confirming that your older child's enrollment in a CHP plan as of May 17, 2017, with such coverage to begin effective July 1, 2017.

On October 17, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On October 18, 2017, NYSOH issued an eligibility redetermination notice stating that your older child was eligible for CHP, without condition, with a monthly premium of \$30.00, effective December 1, 2017. The notice also stated that your older child's coverage would end on June 30, 2018, and you would receive a notice about renewing her coverage in May 2018.

On October 24, 2017, NYSOH issued a notice that it was time to renew your household's health insurance for 2018, including that of your older child. That notice stated that NYSOH did not have enough information from state and federal data sources to determine if your older child qualified for financial help paying for her coverage. The notice asked that you update the information in your account by December 15, 2017 or the financial assistance your older child was receiving could end.

On November 4, 2017, NYSOH received a non-financial assistance application for your household.

On November 5, 2017, NYSOH issued an eligibility determination notice stating that you your child was eligible to purchase a qualified health plan (QHP), with such coverage beginning December 1, 2017.

Also on November 5, 2017, NYSOH issued a disenrollment notice stating that your child's CHP plan coverage would end effective November 30, 2017.

Between November 26, 2017 and November 30, 2017, NYSOH received several updates to your application for financial assistance with health insurance. In response to the final application update received on November 30, 2017, NYSOH prepared a preliminary eligibility determination stating that your older child was eligible for CHP, without condition, with monthly premium of \$9.00, effective January 1, 2018.

On November 30, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your older child's CHP coverage was terminated November 30, 2017, resulting in a gap in coverage.

On January 26, 2018, you had a telephone hearing with a Hearing Officer from the 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 support the following findings of fact:

- 1) According to your NYSOH account and your spouse's testimony, your older child was born on [REDACTED]
- 2) Your spouse testified you are appealing the termination of that child's CHP coverage effective November 30, 2017.
- 3) According to your NYSOH account, on May 17, 2017, your child was enrolled in a CHP health plan for a limited time at a \$15.00 monthly premium, with a plan enrollment start date of July 1, 2017.

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- 4) On October 17, 2017, your older child was redetermined eligible for CHP, without condition, with a \$30.00 monthly premium, effective December 1, 2017. The eligibility determination notice issued on October 18, 2017 stated that your older child's coverage would end on June 30, 2018, and that you would receive a notice about renewing her coverage in May 2018.
- 5) On October 24, 2017, NYSOH issued a renewal notice stating that you needed to update your account by December 15, 2017 to renew your older child's coverage for 2018.
- 6) Your spouse testified, and the record reflects, that you updated your account on November 4, 2017; however, this update reflected that you were not seeking financial assistance with health insurance. Your spouse further testified that this was an inadvertent selection since your household had not previously requested not to receive financial assistance with health insurance.
- 7) Your older child was found eligible for a QHP at full cost, and disenrolled from her CHP plan effective November 30, 2017.
- 8) You subsequently updated your application several times between November 26, 2017 and November 30, 2017 to one seeking financial assistance, and your older child was ultimately found eligible for CHP plan coverage with a \$9.00 monthly premium, effective January 1, 2018.
- 9) Your spouse testified that you were seeking for your older child's CHP plan coverage to be reinstated during the month of December 2017 since you incurred substantial medical bills that month because of her disenrollment.

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 (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)).

The "period of eligibility" for CHP 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” (NY Public Health Law § 2510(6)).

However, a child is not eligible for twelve months of continuous eligibility if:

- The child attains the age of 19;
- The child or child’s representative requests voluntary disenrollment;
- The child is no longer a resident of the state;
- The agency determines that eligibility was erroneously granted because of agency error or fraud, abuse, or perjury attributed to the child or the child’s representative;
- The child dies;
- Failure to pay required premiums or enrollment fees;
- The child becomes Medicaid eligible;
- The child has obtained other health insurance;
- The child has obtained access to a state health benefits plan subsequent to the initial/renewal period;

(see e.g. 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 terminated your child’s CHP plan, effective November 30, 2017.

On May 17, 2017, NYSOH issued eligibility notices stating that your older child was conditionally eligible for and enrolled in a CHP plan, effective as of July 1, 2017.

On October 18, 2017, NYSOH issued notice stating that your older child was eligible for CHP, without condition, and had been enrolled in a CHP plan with an enrollment start date of July 1, 2017.

Generally, once a child is determined eligible for Child Health Plus, they are guaranteed 12 months of coverage. This twelve-month period commences on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment. However, a child’s is ineligible for twelve months of continuous eligibility if certain events, as stated above, occur.

The record reflects that on October 24, 2017, NYSOH issued a renewal notice requesting that you update the information in your account by December 15, 2017, so that your older child’s eligibility could be determined for the 2018 plan year.

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).

Your spouse testified, and the record reflects, that you updated your account on November 4, 2017; however, this update reflected that you were not seeking financial assistance with health insurance. Your spouse further testified that this was likely an inadvertent selection since your household had not previously requested not to receive financial assistance with health insurance.

Because of this update, with your selection to not seek financial assistance, your older child's eligibility for CHP plan coverage ended, effective November 30, 2017.

However, your spouse credibly testified that this update to your NYSOH account was inadvertent, and would not have occurred without the prompting of the NYSOH to update your account to redetermine your older child's eligibility. Indeed, the October 18, 2017 redetermination notice finding that your older child was eligible for CHP coverage, without condition, effective December 1, 2017, confirmed that her coverage would continue until at least June 30, 2018.

We find that NYSOH's prompting for you to update your account for your older child's eligibility was in error, and your testimony credible insofar as your November 4, 2017 account update to one not seeking financial assistance was inadvertent. The record further reflects that none of the enumerated events occurred to disrupt her eligibility for continuous eligibility in CHP. Therefore, your older child's CHP plan was incorrectly terminated, and the November 5, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

You testified that you want your older child's CHP plan to be reinstated for the month of December 2017 because your older child incurred medical expenses in that month. Your case is **RETURNED** to NYSOH to reinstate your older child's health plan for the month of December 2017, and to notify you accordingly.

Decision

The November 5, 2017 eligibility determination and disenrollment notices are **RESCINDED**

Your case is **RETURNED** to NYSOH to reinstate your older child's health plan for the month of December 2017, and to notify you accordingly.

This decision does not affect any subsequent determinations or enrollments made by NYSOH.

Effective Date of this Decision: March 5, 2018

How this Decision Affects Your Eligibility

Your child's case has been sent back to NYSOH to reinstate your older child's coverage for the month December 2017. NYSOH will notify you once this has been done.

You will be responsible to pay for the monthly premium to the health plan directly to effectuate your older child's coverage for that months.

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 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

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 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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The November 5, 2017 eligibility determination and disenrollment notices are **RESCINDED**

Your child's case has been sent back to NYSOH to reinstate your older child's coverage for the month December 2017. NYSOH will notify you once this has been done.

You will be responsible to pay for the monthly premium to the health plan directly to effectuate your older child's coverage for that months.

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، 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।

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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&btumi 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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