



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

Notice of Decision

Decision Date: February 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025186

[REDACTED]

Dear [REDACTED],

On February 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's termination of your children's Child Health Plus plan coverage as of October 31, 2017, as well as the December 2, 2017 plan 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 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 properly terminate your children's enrollment in their Child Health Plus plans, effective October 31, 2017, because of non-payment of premiums?

Did NY State of Health properly determine that your children's enrollment in Child Health Plus plans were next effective January 1, 2018?

Procedural History

On November 17, 2017, NYSOH received your updated application for financial assistance with health insurance.

On November 18, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in Child Health Plus plans with a \$15.00 monthly premium each, effective January 1, 2018.

On December 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's enrollment in their Child Health Plus plans insofar as their enrollment began on January 1, 2018, and not December 1, 2017.

On December 2, 2017, NYSOH issued a plan enrollment notice, based on your December 1, 2017 plan enrollment selection, confirming your children's

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enrollment in Child Health Plus plans with a \$15.00 monthly premium each, effective January 1, 2018.

Also on December 2, 2017, NYSOH issued an appeal confirmation notice on behalf of your three children, which stated in the description of your appeal that it was “[d]enial of a NESD [new enrollment start date] due to non-payment.”

On February 5, 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 support the following findings of fact:

- 1) You testified that you are appealing the start date of your children’s Child Health Plus plans.
- 2) The “events tab” in your NYSOH account indicates that on November 2, 2017, your children were disenrolled from their plans effective October 31, 2017, due to non-payment of premium.
- 3) According to your NYSOH account, you submitted an application on your children’s behalf for financial assistance with health insurance on November 17, 2017.
- 4) You testified that you updated your NYSOH account on November 17, 2017, after being informed that your children were disenrolled from their Child Health Plus plans as of October 31, 2017, for non-payment of premiums.
- 5) There is no record that NYSOH issued a notice indicating that your children were disenrolled from their Child Health Plus plans for non-payment of premium.
- 6) You testified that you did not pay the premium for your children’s Child Health Plus plans on time and did receive notice that your children were disenrolled for non-payment of premium.
- 7) According to your NYSOH account, you selected Child Health Plus plans for reenrollment on December 1, 2017.
- 8) You testified that you called NYSOH to re-enroll your children in their Child Health Plus plans on November 15, 2017, but that you were unable to do so.

9) The Hearing Officer reviewed the telephone record and determined that the only telephone call placed to NYSOH in November 2017 was on November 17, 2017.

10) You testified that you would like your children's Child Health Plus plans to begin as of December 1, 2017, because you have unpaid medical bills for the month of December 2017.

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

Appealable Issues

An applicant has the right to appeal to the Appeals Unit of NYSOH: (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; and (5) the denial of a request for a special enrollment period (45 CFR § 155.505, 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)).

Child Health Plus Effective Date

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

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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 under review is whether NYSOH properly terminated your children’s enrollment in their Child Health Plus plans, effective October 31, 2017, because of non-payment of premiums.

The record indicates that your two oldest children were enrolled in Child Health Plus plans with a \$15.00 monthly premium each, effective January 1, 2016, and your youngest child was enrolled in a Child Health Plus plan with a \$15.00 monthly premium, effective January 1, 2017. You testified that all three of your children were disenrolled from their Child Health Plus plans, effective October 31, 2017, and that you received notice that your children were disenrolled from their Child Health Plus plans after the fact. However, the record does not contain a notice, issued by NYSOH, regarding disenrollment due to non-payment of premiums.

Here, the lack of a notice of termination due to non-payment of premiums does not prevent the Appeals Unit from reviewing the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Your testimony and the “events tab” in your NYSOH account indicating that on November 2, 2017 your children were disenrolled from their plans due to non-payment of premium, along with the December 2, 2017 appeal confirmation notice stating that the reason for your appeal was “denial of new start date due to non-payment”, permits an inference that NYSOH did disenroll your children from their Child Health Plus plans due to non-payment of premium.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the plan disenrollment notice had it been issued.

However, the NYSOH's Appeals Unit only has the authority to review issues related to the following: (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 to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, the NYSOH's Appeals Unit is not able to reach the merits as to whether your children were properly terminated from their Child Health Plus plan coverage for non-payment of premiums, effective October 31, 2017. Therefore, your appeal of the termination of your children's Child Health Plus plan coverage is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plans were effective January 1, 2018.

You testified that you contacted NYSOH on November 15, 2017, to attempt to re-enroll your children into Child Health Plus plans, but you were unable to do so. The Hearing Officer reviewed the telephone record from the month of November 2017 and determined that the only phone call placed to NYSOH in November 2017 was on November 17, 2017. There is no other indication in the record that a call was placed to NYSOH before November 17, 2017. Therefore, the credible evidence of record indicates that the first time you contacted NYSOH was on November 17, 2017. On that same date, NYSOH received your family's updated application for financial assistance with health insurance.

On November 18, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in Child Health Plus plans with \$15.00 monthly premiums, effective January 1, 2018. The record indicates that your children were enrolled into Child Health Plus plans on December 1, 2017, as stated in the December 2, 2017 plan enrollment notice.

The date on which enrollment in a Child Health Plus 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.

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Since your children were re-enrolled in Child Health Plus plans on December 1, 2017, your children's enrollment properly took effect on the first day of the second month following December 2017; that is, on January 1, 2018.

Therefore, the December 2, 2017 plan enrollment notice stating your children's enrollment in Child Health Plus plan with a \$15.00 monthly premium each was effective January 1, 2018, is correct and is AFFIRMED.

Decision

Your appeal of your children's termination from their Child Health Plus plans due to non-payment of premium is DISMISSED as a non-appealable issue.

The December 2, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: February 16, 2018

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plans with a \$15.00 monthly premium each is January 1, 2018.

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)).

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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 your children's termination from their Child Health Plus plans due to non-payment of premium is **DISMISSED** as a non-appealable issue.

The December 2, 2017 plan enrollment notice is **AFFIRMED**.

This decision does not change your children's eligibility.

The effective date of your children's Child Health Plus plans with a \$15.00 monthly premium each is January 1, 2018.

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Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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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&btumi 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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