



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

Notice of Decision

Decision Date: February 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025318

[REDACTED]

[REDACTED]

On February 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2017 eligibility determination and plan enrollment 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 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 § 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025318

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Issue

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

Did NY State of Health (NYSOH) properly determine that your newborn child's eligibility for and enrollment in his Child Health Plus (CHP) plan was effective January 1, 2018?

Procedural History

On August 12, 2017 and October 3, 2017, NYSOH issued eligibility determination notices, based on your August 11, 2017 and October 2, 2017 updated applications, stating that your newborn child (child) was eligible to enroll in a full cost CHP plan for a limited time, effective September 1, 2017 and November 1, 2017, respectively. These notices directed you to provide your child's social security number by November 9, 2017 to confirm his eligibility.

Also on August 12, 2017 and October 3, 2017, plan enrollment notices were issued confirming your child's enrollment in a CHP plan.

Your child's social security number was not added to your account by November 9, 2017.

On November 16, 2017, NYSOH issued an eligibility determination notice stating that your child did not qualify for health coverage through NYSOH. This was because you had not added your child's social security number to your account within the required time frame. Your child's eligibility ended effective December 1, 2017.

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Also on November 16, 2017, a disenrollment notice was issued stating that your child's CHP plan would end on November 30, 2017, because your child was no longer eligible to enroll in health insurance through NYSOH.

On December 4, 2017, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that your child was eligible for CHP and a plan was selected for his enrollment, with coverage beginning on January 1, 2018.

Also on December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as he was not covered for the month of December 2017.

On December 5, 2017, NYSOH issued an eligibility determination notice, consistent with the preliminary eligibility determination, stating that your child was eligible to enroll in a full cost CHP plan, effective January 1, 2018.

Also on December 5, 2017, a plan enrollment notice was issued confirming your child's re-enrollment in his CHP plan with coverage beginning on January 1, 2018.

On December 16, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a full cost CHP plan, effective December 1, 2017.

On January 4, 2018, a plan enrollment notice was issued confirming your child's enrollment in his CHP plan with coverage beginning on December 1, 2017.

On February 15, 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) According to your NYSOH account and your testimony, your child was added to your account on March 2, 2017. That day he was found conditionally eligible for CHP pending confirmation of his social security number, effective February 1, 2017. Your child was subsequently disenrolled for failure to provide his social security number in a timely manner.
- 2) You testified that when you updated your account after your child's initial disenrollment, you believed that that NYSOH would automatically

have your child's social security number and that you were not aware that you needed to provide the number yourself.

- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you still needed to provide your child's social security number to confirm his eligibility or that your child had been disenrolled from his health plan. You were unaware that your child had no insurance coverage in December 2017 until you were advised of this at a hospital visit in December 2017.
- 4) On December 4, 2017, NYSOH received your child's updated application for health insurance. Your child's social security number was added to your account that day.
- 5) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulations and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 6) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the November 16, 2017 eligibility determination and disenrollment notices advising you that your child no longer qualified for health insurance and that he had been disenrolled from his health plan.
- 7) You testified that you are seeking that your child be enrolled in his CHP plan as of December 1, 2017 because he had several visits to his doctor, including a hospital visit.
- 8) According to a written record, dated December 15, 2017, your child's CHP plan was backdated to December 1, 2017 as Aid to Continue pending the determination of your appeal.

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

Applicable Law and Regulations

Child Health Plus

To be eligible for CHP, a 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 PHL § 2511(2)(a)-(e)).

As a condition of eligibility for CHP, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for CHP if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5-day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's eligibility (42 CFR § 457.340(e)). When coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

The State of New York has provided that a child's period of eligibility for CHP begins on the first day of the month during which a child is eligible. A child will

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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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's enrollment in his CHP plan was effective January 1, 2018.

Your child was originally found eligible for CHP effective February 1, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual's citizenship status or Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

According to your NYSOH account and your testimony, your child was added to your account on March 2, 2017. That day he was found conditionally eligible for CHP, pending confirmation of his social security number. Your child was subsequently disenrolled for failure to provide his social security number in a timely manner.

The record indicates that you updated your child's account on August 11, 2017 and October 2, 2017. The application that was submitted on these days indicated that he was a U.S Citizen but he did not have a social security number because you were in the process of applying for one. As such, your child was again found conditionally eligible for CHP pending confirmation of his social security number, as stated in NYSOH's August 12, 2017 and October 3, 2017 eligibility determination notices.

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Because there was no timely response to these notices, your child was terminated from his CHP plan for a second time, effective November 30, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the record that NYSOH sent you an electronic alert notifying you of new notices available in your account on August 12, 2017, October 3, 2017, or November 16, 2017.

Although you testified you believed by updating your child's account, that NYSOH would automatically have your child's social security number and that you were not aware that you needed to provide the number yourself. Since your child was previously disenrolled for failure to submit his social security number, this statement is not credible. However, you credibly testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that your child had been disenrolled from his CHP plan.

There is also no evidence in your NYSOH account documenting that any email alert was sent to you regarding the November 16, 2017 notices, that any such electronic alert failed, or that the notices were later sent to you by regular mail.

NYSOH is required to send applicants proper notice for applicants to take appropriate action. There is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one. Therefore, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your child's NYSOH account to continue to receive health insurance through NYSOH.

You first updated your child's application for health coverage through NYSOH for on December 4, 2017, and therefore we must assume that this is the information that would have been used had you been timely informed of your child's disenrollment from his health plan, as stated in the November 16, 2017 eligibility determination and disenrollment notices.

Therefore, the December 5, 2017 eligibility determination notice is MODIFIED to state that, effective December 1, 2017, your child is eligible to enroll in a full cost CHP plan; and the December 5, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his CHP plan is effective December 1, 2017.

Decision

The December 5, 2017 eligibility determination notice is MODIFIED to state that, effective December 1, 2017, your child is eligible to enroll in a full cost CHP plan.

The December 5, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his CHP plan is effective December 1, 2017.

According to your NYSOH account, your child's coverage was already backdated to December 1, 2017, by virtue of Aid to Continue being granted.

Effective Date of this Decision: February 20, 2018

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in his CHP plan should have been effective as of December 1, 2017.

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)).

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 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).

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

Summary

The December 5, 2017 eligibility determination notice is MODIFIED to state that, effective December 1, 2017, your child is eligible to enroll in a full cost CHP plan.

The December 5, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his CHP plan is effective December 1, 2017.

Your child's eligibility for and enrollment in his CHP plan should have been effective as of December 1, 2017.

According to your NYSOH account, your child's coverage was already backdated to December 1, 2017, by virtue of Aid to Continue being granted.

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&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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