

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

Notice of Decision

Decision Date: March 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025832

[REDACTED]

On February 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2017 eligibility determination notice and disenrollment notices and the November 22, 2017 enrollment confirmation 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.

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Decision Date: March 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025832



Issues

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

Did NY State of Health (NYSOH) properly determine you and your child were no longer eligible to enroll in your health plans, effective December 1, 2017?

Did NYSOH properly determined the subsequent enrollments of you and your child became effective no earlier than January 1, 2018?

Procedural History

On December 8, 2016, NYSOH issued an enrollment notice confirming your enrollment in an Essential Plan and your child's enrollment in a Child Health Plus plan, effective January 1, 2017.

On October 28, 2017, NYSOH issued a notice indicating that the health coverage for you and your child was being automatically renewed for the 2018 coverage year. The notice indicated that, based on income information from data sources, your child was eligible for Medicaid and you were eligible for the Essential Plan with no monthly premium, effective January 1, 2018. The notice directed you to pick a health plan for your child by December 15, 2017.

On November 9, 2017, your mailing address was marked "invalid" by NYSOH and the eligibility of you and your child was systematically redetermined.

On November 10, 2017, NYSOH issued an eligibility determination notice stating you and your child were no longer eligible for health insurance through NYSOH,

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effective December 1, 2017, because notice(s) concerning your eligibility and health coverage sent by U.S. mail to the mailing address listed on your account had been returned as undeliverable. The notice directed you to update your mailing address, so the eligibility of you and your child could be redetermined.

Also on November 10, 2017, NYSOH issued a disenrollment notice stating the coverage through the health plans you and your child were enrolled in would end on November 30, 2017, because you and your child were no longer eligible to enroll in health coverage through NYSOH.

On November 21, 2017, an updated application was submitted on behalf of you and your child and your mailing address was changed.

On November 22, 2017, NYSOH issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited time, effective January 1, 2018. The notice directed you to submit proof of your income by February 19, 2018 to confirm your eligibility. The notice further stated that your child was eligible for Child Health Plus with a \$9.00 monthly premium, effective January 1, 2018.

Also on November 22, 2017, NYSOH issued an enrollment notice, based on your November 21, 2017 plan selections, confirming you were enrolled in an Essential Plan and your child was enrolled in a Child Health Plus plan, effective January 1, 2018.

Additionally, on November 22, 2017, NYSOH issued a notice confirming your mailing address had been changed on November 21, 2017.

On November 23, 2017, NYSOH issued an eligibility determination notice, based on a November 22, 2017 systematic eligibility redetermination, stating you were fully eligible for the Essential Plan with a \$20.00 monthly premium and your child was eligible for Child Health Plus with a \$9.00 monthly premium, effective January 1, 2018.

On December 14, 2017, you spoke with the NYSOH Accounts Review unit and requested an appeal insofar as you and your child were not eligible for coverage for the month of December 2016.

On February 28, 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 enrolled in an Essential Plan and your child enrolled in a Child Health Plus plan, effective January 1, 2017.
- 2) According to your account, NYSOH issued a notice dated October 28, 2017 indicating that the health coverage for you and your child was being automatically renewed for the 2018 coverage year based on income information received from data sources. That notice advised you to pick a new health plan for your child.
- 3) The October 28, 2017 notice, designated "[REDACTED]" in your account, was addressed to [REDACTED].
- 4) A November 8, 2017 entry in your account indicates "[REDACTED] is undelivered."
- 5) According to your account, on November 9, 2017, NYSOH marked the mailing address listed on your account "invalid."
- 6) The eligibility of you and your child was systematically redetermined on November 9, 2017 and you were both determined ineligible to enroll in coverage through NYSOH based on the purported inability to confirm your mailing address.
- 7) You and your child were disenrolled from your health plans on November 30, 2017.
- 8) Your account confirms that on November 21, 2017, an updated application was submitted on behalf of you and your child and your mailing address was updated to [REDACTED].
- 9) According to your account, you were subsequently determined eligible for the Essential Plan and your child was determined eligible to enroll in Child Health Plus, effective January 1, 2017.
- 10) According to your account, updated Essential Plan and Child Health Plus enrollment requests were submitted on behalf of you and your child on November 21, 2017. Those enrollments became effective January 1, 2018.
- 11) You appealed insofar as you and your child were not eligible to enroll in coverage for the month of December 2017. You testified that you have outstanding medical bills from that month.

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- 12) You testified that you moved at the end of July 2017 from [REDACTED]
- 13) You testified that as of August 1, 2017, [REDACTED] was your mailing address.
- 14) You testified that you contacted NYSOH in July or August 2017 to update the mailing address on your account.
- 15) The Appeals Unit requested information from NYSOH regarding telephone calls received in 2017 associated with your NYSOH account. In response, NYSOH provided a telephone call log showing no record of telephone calls received between December 7, 2016 and December 14, 2017. NYSOH also produced a statement of research findings indicating that the only calls received in 2017 were three calls in December 2017.
- 16) There is no record of you updating your mailing address with NYSOH to [REDACTED] prior to November 21, 2017 when your mailing address was updated as part of your updated online application.

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

Applicable Law and Regulations

Essential Plan Eligibility

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see *also* 42

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CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Child Health Plus

A child who meets the eligibility requirements for 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 (NY PHL) § 2511(2)(a)(iii)).

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

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 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 first issue under review is whether NYSOH properly determined you and your child were no longer eligible to enroll in your health plans, effective December 1, 2017.

Your account confirms that you enrolled in an Essential Plan and your child enrolled in a Child Health Plus plan, effective January 1, 2017. On October 28, 2017, NYSOH issued you a notice indicating the health coverage for you and your child was being automatically renewed for the 2018 coverage year. That notice was addressed to [REDACTED]. According to your account, that notice was returned to NYSOH as undeliverable and your mailing address was subsequently marked as invalid. As a result, NYSOH redetermined the eligibility of you and your child on November 9, 2017 and you were both determined ineligible to enroll in coverage through NYSOH, because of the purported inability to confirm your mailing address. You were both disenrolled

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from your health plans, effective November 30, 2017. You appealed that disenrollment.

According to the above cited regulations, New York State residency is an eligibility requirement for both the Essential Plan and Child Health Plus. Because the October 28, 2017 notice was returned to NYSOH as undeliverable, NYSOH was unable to verify that you and your child were still New York State residents. Therefore, NYSOH could not confirm that you and your child remained eligible to enroll in your health plans.

You confirmed that the address listed on the October 28, 2017 notice was not your mailing address at that time, because you moved at the end of July 2017. Although you testified that you contacted NYSOH to update your mailing address in July or August 2017, there is no record of any such address update prior to November 21, 2017. NYSOH produced a telephone call history showing that the only calls associated with your account made to NYSOH in 2017 were in all December. Thus, there is insufficient evidence in the record to corroborate your testimony that you updated your NYSOH account with your new mailing address prior to the issuance of the October 28, 2017 notice.

Rather, the evidence supports a finding that the October 28, 2017 notice was issued to the address listed on your account, because, at that point, the account had not been updated with your current mailing address. Since your account indicates that the notice was returned as undeliverable and you confirmed that the mailing address listed on your account at that time was not accurate, it is concluded that NYSOH properly found you and your child ineligible for health coverage through NYSOH, because your New York State residency could not be confirmed.

Therefore, the November 10, 2017 eligibility determination and disenrollment notices stating you and your child were not eligible to enroll in your health plans, effective December 1, 2017, were correct and are AFFIRMED.

The second issue under review is whether NYSOH properly determined the subsequent enrollments of you and your child became effective no earlier than January 1, 2018.

According to your account, updated Essential Plan and Child Health Plus enrollment requests were submitted on behalf of you and your child on November 21, 2017. Those enrollments became effective January 1, 2018. You appealed insofar as the subsequent enrollments of you and your child were not effective earlier than January 1, 2018.

In accordance with the above cited regulations, the date on which enrollment in an Essential Plan or Child Health Plus can take effect depends on the day a person selects the plan for enrollment.

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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.

Since the evidence establishes that subsequent Essential Plan and Child Health Plus enrollment requests were not submitted on behalf of you and your child until November 21, 2017, after the fifteenth day of the month, those enrollments could not become effective until the first day of the second following month; that is, on January 1, 2018.

Therefore, the November 22, 2017 enrollment confirmation notice stating the Essential Plan and Child Health Plus plan enrollments of you and your child became effective on January 1, 2018 was correct and is AFFIRMED.

Decision

The November 10, 2017 eligibility determination notice is AFFIRMED.

The November 10, 2017 disenrollment notice is AFFIRMED.

The November 22, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: March 20, 2018

How this Decision Affects Your Eligibility

You and your child were not eligible to enroll in health coverage through NYSOH in December 2017.

The subsequent health plan enrollments of you and your child became effective on 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

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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):

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

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Summary

The November 10, 2017 eligibility determination notice is AFFIRMED.

The November 10, 2017 disenrollment notice is AFFIRMED.

The November 22, 2017 enrollment confirmation notice is AFFIRMED.

You and your child were not eligible to enroll in health coverage through NYSOH in December 2017.

The subsequent health plan enrollments of you and your child became effective on January 1, 2018.

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)

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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.