



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

Notice of Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026608

[REDACTED]

Dear [REDACTED],

On March 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 19, 2017 eligibility determination and enrollment confirmation 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 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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Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000026608

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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 youngest child's eligibility for, and enrollment in, her Child Health Plus (CHP) coverage was effective February 1, 2018?

Procedural History

On December 29, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible for Medicaid effective December 1, 2016.

On October 24, 2017, NYSOH issued a renewal notice, stating that it was time to renew your youngest child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether your youngest child would qualify for financial help paying for her health coverage, and that you needed to update your account by December 15, 2017, or her coverage could end, along with any financial assistance.

No updates were made to your account by December 15, 2017.

On December 17, 2017, NYSOH issued a discontinuance notice stating your youngest child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your youngest child's

renewal within the required time frame. Her eligibility ended effective January 1, 2018.

On December 18, 2017, NYSOH received your updated application for health insurance.

On December 19, 2017, NYSOH issued an eligibility redetermination notice stating that your youngest child was eligible for CHP with no monthly premium, effective February 1, 2018.

Also on December 19, 2017, NYSOH issued a notice of enrollment confirmation stating that your youngest child was enrolled in a CHP plan with no monthly premium, beginning February 1, 2018.

On January 2, 2018, you spoke to NYSOH's Account Review Unit and appealed, insofar as your youngest child's CHP eligibility and coverage began on February 1, 2018, and not January 1, 2018.

On March 6, 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, and your NYSOH account confirms, that your youngest child was enrolled in Medicaid and a Medicaid Managed Care plan through December 31, 2017.
- 2) You testified that you began receiving emails from NYSOH stating that you had a notice to view in your inbox, but that, when you tried to log into your NYSOH account to view the notice, you were unable to log in.
- 3) You testified that you were previously receiving notices from NYSOH by regular mail, and you do not know when NYSOH started sending you email alerts.
- 4) You testified that you do not recall receiving any emails from NYSOH in October 2017, and that you also did not receive any regular mail from NYSOH in that month.
- 5) You testified that it was in December 2017 when you received the emails that prompted you to log in to your NYSOH account, and that this was when you tried, but were unable, to view your NYSOH inbox.

- 6) You testified that you called NYSOH toward the end of December 2017, and that this was when you were informed that you had allegedly opted out of receiving regular mail.
- 7) You testified that, on that same day, you found out that your youngest child's coverage was ending, so you updated your NYSOH application, and changed your contact preference to regular mail.
- 8) You testified that you never saw the December 17, 2017 discontinuance notice, but that you called NYSOH around that time because you could not get into your NYSOH inbox.
- 9) Your NYSOH account reflects that you updated your application on December 18, 2017, and your youngest child was found eligible for CHP, effective February 1, 2018.
- 10) Your NYSOH account does not contain any notices confirming a request to receive electronic communication from NYSOH.
- 11) 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 regulation 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."
- 12) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 24, 2017 renewal notice.
- 13) You testified that your youngest child had several doctor's appointments in January 2018, and that you have outstanding medical bills for those visits.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or "whenever it receives information about a change in a beneficiary's

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circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR §155.335(h)).

Child Health Plus

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,” 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 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 e.g. 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 either by electronic alerts or by 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)).

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Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your youngest child's enrollment in her CHP coverage and plan was effective February 1, 2018.

Your youngest child was originally found eligible for Medicaid effective December 1, 2016. She was subsequently enrolled into a Medicaid Managed Care plan.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 24, 2017 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue receiving financial assistance with her health insurance, and that you needed to update your application by December 15, 2017, or her coverage and financial assistance could end.

Because there was no timely response to this notice, she was terminated from her Medicaid and Medicaid Managed Care plan effective December 31, 2017.

However, you testified that you never received the October 24, 2017 renewal notice by mail, and that you also do not recall receiving any emails in October regarding notices in your NYSOH inbox. You testified that you have always received notices from NYSOH in the regular mail, but that you received some emails in December 2017 which alerted you to a notice in your NYSOH inbox, which you were unable to access.

You testified that you called NYSOH in December 2017 and were informed that you had been opted out of regular mail, which you do not recall ever doing. Your NYSOH account is also void of any notices confirming a preference for electronic communication. Additionally, although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on October 24, 2017.

You credibly testified that you did not receive an electronic alert regarding the renewal notice, which directed you to update your account because there was not enough information to renew your youngest child's coverage for the upcoming year. There is also no evidence in your account documenting that any

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email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account for your youngest child to continue to receive financial assistance and health insurance through NYSOH. Moreover, there is no evidence in your account that you ever opted to receive email alerts regarding NYSOH notices.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your youngest child's eligibility for financial assistance through NYSOH for the upcoming coverage year on December 18, 2017, and therefore we must assume that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Had the information been submitted at that time, your youngest child's eligibility for, and enrollment in, her CHP plan would have started on January 1, 2018.

Therefore, the December 19, 2017 eligibility determination notice is MODIFIED to state that your youngest child was eligible for CHP with no monthly premium, effective January 1, 2018.

Likewise, the December 19, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP plan was effective January 1, 2018.

Decision

The December 19, 2017 eligibility determination notice is MODIFIED to state that your youngest child was eligible for CHP with no monthly premium, effective January 1, 2018.

The December 19, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP plan was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate correcting your youngest child's enrollment in her CHP plan to the appropriate date.

Effective Date of this Decision: March 21, 2018

How this Decision Affects Your Eligibility

Your youngest child's eligibility for, and enrollment in, her CHP plan should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH backdate your youngest child's CHP enrollment and coverage to 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)).

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

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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 19, 2017 eligibility determination notice is MODIFIED to state that your youngest child was eligible for CHP with no monthly premium, effective January 1, 2018.

The December 19, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP plan was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate correcting your youngest child's enrollment in her CHP plan to the appropriate date.

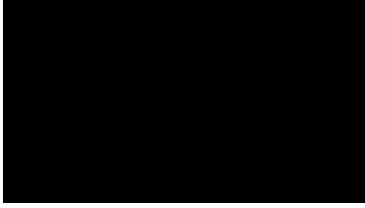
Your youngest child's eligibility for, and enrollment in, her CHP plan should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH backdate your youngest child's CHP enrollment and coverage to 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)

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&etumi ama wo obi a okyerE 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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