



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

Notice of Decision

Decision Date: April 10, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027215

[REDACTED]

Dear [REDACTED]

On March 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 17, 2017 eligibility determination and disenrollment notices, as well as the January 9, 2018 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 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 Date: April 10, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027215

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus terminated as of January 1, 2018?

Did NYSOH properly determine that your and your spouse's enrollment in a qualified health plan was effective no earlier than February 1, 2018?

Procedural History

On November 18, 2016, NYSOH issued a notice of eligibility determination, based on your November 17, 2016 application, stating that you and your wife were eligible to purchase a qualified health plan at full cost, effective January 1, 2017. Your three children (children) were eligible to purchase a Child Health Plus plan at full cost, effective January 1, 2017.

You and your wife were subsequently enrolled in a Gold-level qualified health plan, effective January 1, 2017. Your children were enrolled in a Child Health Plus plan, effective January 1, 2017.

On October 24, 2017, NYSOH issued a notice that it was time to renew your household's health insurance for 2018. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not you, your wife, and your children qualified for financial help paying for your coverage. The notice directed you to update the information in your

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account by December 15, 2017, or the financial assistance your household was receiving might end.

On November 22, 2017, NYSOH issued a disenrollment notice stating your and your wife's coverage in your qualified health plan would end, effective December 31, 2017. The notice stated this was because you were no longer eligible to enroll in your plan.

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

On December 17, 2017, NYSOH issued an eligibility determination notice stating that, effective January 1, 2018, your children were no longer eligible for health insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

On December 17, 2017, NYSOH issued a disenrollment notice stating that your children's coverage through their Child Health Plus plan would end December 31, 2017, because they were no longer eligible to enroll in insurance through NYSOH.

On January 8, 2018, NYSOH received your, your wife's, and your children's updated application for health insurance.

On January 9, 2018, NYSOH issued an eligibility determination notice, based on your January 8, 2018 application, stating that you and your wife were eligible to purchase a qualified health plan at full cost, effective February 1, 2018. The notice also stated that your children were eligible to enroll in Child Health Plus at full cost, effective February 1, 2018.

Also on January 9, 2018, NYSOH issued a plan enrollment notice, based on your plan selection on January 8, 2018, stating that you and your wife were enrolled in a Gold-level qualified health plan, effective February 1, 2018, and your children were enrolled in a Child Health Plus plan, effective February 1, 2018.

On January 15, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your, your wife's and your children's health plan start dates insofar as none of you had coverage for the month of January 2018.

Your hearing was scheduled for March 16, 2018. You requested an adjournment of this hearing to a new date and time to NYSOH. The request was granted and your hearing was rescheduled for March 23, 2018.

On March 23, 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 that you are appealing your and your wife's gap in coverage of one month for January 2018. You are also appealing your children's disenrollment from their Child Health Plus plan for the month of January 2018.
- 2) You testified that you receive all of your notices from NYSOH by electronic alert.
- 3) You testified that you do not remember receiving any alert by email indicating that there was a new notice on your NYSOH account in October 2017m and you checked your e-mail often during this time.
- 4) You confirmed your e-mail address as correct.
- 5) No notices have been sent back as undeliverable from your mailing address.
- 6) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 24, 2017 renewal notice.
- 7) The October 24, 2017 renewal notice does not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond. The notice does state that your children's financial eligibility may end and that they were at risk of losing health insurance.
- 8) You testified that you became aware that you and your wife were disenrolled from your qualified health plan and your children were disenrolled from their Child Health Plus plan in January 2018, when you tried to fill a prescription at [REDACTED].
- 9) According to your NYSOH account and your testimony, you contacted NYSOH on January 8, 2018, and re-enrolled you, your wife, and children in coverage.
- 10) You testified you incurred medical bills as a result of being without coverage for the month of January 2018.

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 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) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, 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 Public Health Law § 2511(2)(a)-(e)).

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 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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 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” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision affecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or

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terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

Electronic Notices

If the individual elect electronic communications, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

Legal Analysis

The first issue under review is whether NYSOH provided you proper and adequate notice that your children's eligibility for and enrollment in Child Health Plus terminated as of January 1, 2018.

Your children were originally found eligible for Child Health Plus and enrolled effective January 1, 2017.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by December 15, 2017 or the financial assistance your children were receiving may end.

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

On December 17, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective January 1, 2018. According to the eligibility determination notice issued on December 17, 2017, this was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The December 17, 2017 renewal notice does not indicate that your children's Child Health Plus plan enrollment would be terminated if you failed to respond; only that they were at risk of losing coverage. You were first informed that your children's coverage through their Child Health Plus plan would end as of January 1, 2018, in the December 17, 2017 eligibility determination and December 17, 2017 disenrollment notices.

The record indicates that, on January 8, 2018, you updated your NYSOH account and submitted an updated application for your children. You testified that you updated the account as soon as you were made aware that coverage had ended when you went to the store to fill a prescription.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. The December 17, 2017 notice

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of disenrollment would be considered received by you by December 22, 2017. Since you would have received NYSOH's notice terminating your children's Child Health Plus eligibility after the 15th of the month, any changes you would have made to your account would not have been effective until February 1, 2018, which would create a gap in coverage, not prevent one.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your children for the month of January 2018, such that the December 17, 2017 disenrollment notice and December 17, 2017 eligibility determination notice are RESCINDED.

The second issue under review is whether NYSOH properly determined your and your spouse's enrollment in a qualified health plan was effective no earlier than February 1, 2018.

NYSOH must redetermine a qualified individual's eligibility for health insurance and financial assistance to help pay for that health insurance annually. NYSOH must issue a renewal notice that contains the individual's projected eligibility. If an individual does not respond to this notice, NYSOH must issue an eligibility determination for the upcoming coverage year based on the information contained in the renewal notice.

On October 24, 2017, NYSOH issued an annual renewal notice in your case. That notice stated that based on information from federal and state sources, NYSOH could not make a decision about whether or not you qualify for financial help with paying for your health coverage. You were asked to update the information in your account by December 15, 2017 or the financial help you were receiving might end. You were not receiving financial assistance and were paying for your coverage at full cost during 2017. You requested automatic renewal of your coverage for five years based on your December 16, 2016 application.

Because there was no timely response to this notice, your eligibility for financial assistance and your enrollment in a qualified health plan was terminated effective January 1, 2018.

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 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 do not remember receiving an electronic alert regarding the renewal notice, which directed you to update your account because there was not enough information to renew your coverage for the upcoming year. There is also no evidence in your account documenting that any 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 in order 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 in an account you were regularly checking during the month of October 2017, there is insufficient evidence in the record that NYSOH provided you with proper notice.

You first renewed your and your spouse's eligibility for coverage through NYSOH for 2018 on January 8, 2018, and therefore we must assume that this 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.

Therefore, the January 9, 2018, eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you and your wife are eligible to purchase a qualified health plan at full cost, and the January 9, 2018 enrollment notice is MODIFIED to state that your and your wife's enrollment in your qualified health plan is effective January 1, 2018.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of January 2018. It is also RETURNED to NYSOH to enroll you and your wife into your qualified health plan as of January 1, 2018, and to notify you accordingly.

Decision

The December 17, 2017 disenrollment and eligibility determination notices are RESCINDED.

The January 9, 2018, eligibility determination notice is MODIFIED to state that, effective January 1, 2018, you and your wife are eligible to purchase a qualified health plan at full cost.

The January 9, 2018 enrollment notice is MODIFIED to state that your and your wife's enrollment in your qualified health plan is effective January 1, 2018.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of January 2018. It is also RETURNED to NYSOH to enroll you and your wife into your qualified health plan as of January 1, 2018, and to notify you accordingly.

Effective Date of this Decision: April 10, 2018

How this Decision Affects Your Eligibility

Your children should not have been terminated from their Child Health Plus plan in January 2018, because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of January 2018. NYSOH will notify you once this has been completed.

Your and your wife's enrollment in your qualified health plan should have begun as of January 1, 2018. Your case is being sent back to NYSOH to effectuate this change.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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.

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).

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

Summary

The December 17, 2017 disenrollment and eligibility determination notices are **RESCINDED**.

The January 9, 2018, eligibility determination notice is **MODIFIED** to state that, effective January 1, 2018, you and your wife are eligible to purchase a qualified health plan at full cost.

The January 9, 2018 enrollment notice is **MODIFIED** to state that your and your wife's enrollment in your qualified health plan is effective January 1, 2018.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of January 2018. It is also **RETURNED** to NYSOH to enroll you and your wife into your qualified health plan as of January 1, 2018, and to notify you accordingly.

Your children should not have been terminated from their Child Health Plus plan in January 2018 because NYSOH failed to issue proper notice.

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 case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of January 2018. NYSOH will notify you once this has been completed.

Your and your wife's enrollment in your qualified health plan should have begun as of January 1, 2018. Your case is being sent back to NYSOH to effectuate this change.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

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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