



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

Notice of Decision

Decision Date: May 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027329



Dear [REDACTED]

On March 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 4, 2018 and January 9, 2018 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 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 (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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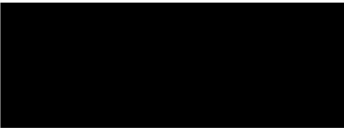


STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: May 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027329



Issue

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

Did NY State of Health (NYSOH) properly determine your children's enrollment in a Child Health Plus plan became effective no earlier than February 1, 2018?

Procedural History

On January 3, 2018, NYSOH received an initial application for financial assistance with health insurance submitted on behalf of your children.

On January 4, 2018, NYSOH issued an eligibility determination notice stating your children were eligible for Child Health Plus with a \$45.00 monthly premium, each, effective February 1, 2018.

Also on January 4, 2018, NYSOH issued an enrollment notice, based on your January 3, 2018 plan selection, confirming your children were enrolled in a Child Health Plus plan, effective February 1, 2018.

On January 9, 2018, NYSOH issued an eligibility determination notice, based on your January 8, 2018 updated application, stating your children were eligible for Child Health Plus with a \$45.00 monthly premium each, effective February 1, 2018. That notice indicated that your case was referred to your local county Department of Social Services to determine your children's eligibility for Medicaid on a different basis.

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On January 17, 2018, you spoke to NYSOH's Account Review Unit and appealed the effective dates of your children's Child Health Plus enrollment insofar as their coverage was not effective January 1, 2018.

On March 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 thereafter.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) The first application for health insurance for your children was received by NYSOH on January 3, 2018.
- 2) NYSOH determined your children eligible for Child Health Plus with a \$45.00 monthly premium, each, effective February 1, 2018.
- 3) You testified, and your account confirms, that you selected a health plan for your children on January 3, 2018. Coverage through that plan became effective February 1, 2018.
- 4) You appealed insofar as your children's coverage was not effective January 1, 2018.
- 5) You testified that your children were previously covered under their father's employer sponsored health insurance. You testified that coverage ended December 31, 2017.
- 6) You testified that on January 3, 2018, you spoke to a NYSOH representative and requested that your children's coverage be backdated to January 1, 2018. You testified the representative told you she would submit a backdate request, and that you could take your children to the doctor's immediately, because it was guaranteed your backdate request would be approved based on your children's loss of prior coverage.
- 7) Notes in your account from incident # [REDACTED] on January 3, 2018 relating to your request to backdate your children's coverage include: "Explained to consumer ... Loss of employer-sponsored insurance reasons include: death of spouse, legal separation, divorce, annulment, end of domestic partnership, termination of employment, or aging off policy. The children qualify for a NESDATE for 1/1/18," and "Advised consumer to upload the disenrollment notice to show proof that coverage ended on 12/31/17, to support the NESDATE request."

- 8) You testified that you took your children to the doctor's in January 2018, based on the representations made by the NYSOH representative on January 3, 2018 that their coverage would be backdated to January 1, 2018.
- 9) According to notes in your account on January 17, 2018 from incident # [REDACTED] NYSOH denied your request to backdate your children's coverage because their enrollment was not completed before their prior coverage ended.
- 10) You testified your children have outstanding medical bills from 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 - Effective Dates of Coverage

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" (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 issue under review is whether NYSOH properly determined your children's enrollment in a Child Health Plus plan became effective no earlier than February 1, 2018.

Your account confirms that NYSOH received your children's initial application for health insurance on January 3, 2018. Your children were determined eligible for Child Health Plus with a \$45.00 monthly premium, each, effective February 1, 2018. You testified, and your account confirms, that you selected a health plan for your children on January 3, 2018. Coverage through that plan became effective February 1, 2018. You appealed insofar as your children's coverage was not effective January 1, 2018.

In accordance with the above cited regulations, the date on which enrollment in a Child Health Plus 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.

Since the evidence establishes that you did not select a Child Health Plus plan for your children until January 3, 2018, according to the regulations, that plan could not become effective until the first day of the next month; that is on February 1, 2018.

It is noted that you testified, that on January 3, 2018, a NYSOH representative told you that your request to backdate your children's coverage to January 1, 2018 was guaranteed to be approved based on their loss of prior coverage, so you took your children to the doctor's based on that representation which resulted in an outstanding medical bill. Given the notes in your account on January 3, 2018 relating to your backdate request, it is concluded that your testimony is plausible.

However, it has been held that an appellant having relied, to his detriment, on erroneous information received from a government representative in a phone call is not a basis to receive rights that the appellant would not otherwise have had (see, e.g., *Smith v New York State & Local Retirement Sys.*, 199 AD2d 763 (1993); *Matter of Grella v Hevesi*, 38 AD3d 113, 117-118 (2007)). Since, your children were not eligible to enroll in a Child Health Plus plan until February 1, 2018, based on the date in which you applied and the applicable regulations, any inaccurate statements or advice on the part of the NYSOH representative on January 3, 2018 did not result in a change to their eligibility.

Therefore, the January 4, 2018 and January 9, 2018 enrollment notices confirming your children's enrollment in a Child Health Plus plan, effective February 1, 2018, were correct and are AFFIRMED.

Decision

The January 4, 2018 and January 9, 2018 enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: May 15, 2018

How this Decision Affects Your Eligibility

Your children's Child Health Plus plan enrollment became effective on February 1, 2018

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as a portion of your case was decided, the 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 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 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

Summary

The January 4, 2018 and January 9, 2018 enrollment confirmation notices are **AFFIRMED**.

Your children's Child Health Plus plan enrollment became effective on February 1, 2018

Legal Authority

We are issuing this determination in accordance with 45 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).

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. y&b&tumi ama wo obi a okyer& 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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