



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

Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027842



Dear [REDACTED]

On April 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2018 discontinuance and disenrollment 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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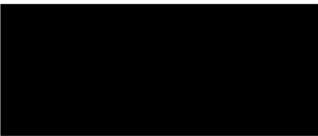


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000027842



Issue

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

Did NY State of Health (NYSOH) properly determined that your youngest child's eligibility for and enrollment in a Child Health Plus (CHP) plan ended as of February 28, 2018?

Procedural History

On April 11, 2017, you submitted an application for health insurance.

On April 12, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP at full cost, effective May 1, 2017.

Also on April 12, 2017, NYOH issued a plan enrollment notice confirming that your children were enrolled in a CHP plan, effective March 1, 2017.

On April 21, 2017, NYOH issued a disenrollment notice stating that your children's CHP coverage would end on March 31, 2017 because you did not pay your insurance bill by the payment deadline.

On January 3, 2018, an application for health insurance was submitted.

On January 4, 2018, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP at full cost, effective February 1, 2018. Also on January 4, 2018, NYSOH issued a plan enrollment notice stating that your children were enrolled in a CHP plan, effective March 1, 2017.

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On January 26, 2018, NYSOH received your children's updated application for health insurance. That day, a preliminary eligibility determination was prepared stating that your youngest child's eligibility for CHP ended effective March 1, 2018.

Also on January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed the termination date of your youngest child's CHP plan insofar as it was not terminated effective August 31, 2017.

On January 27, 2018, NYSOH issued a discontinuance notice stating that, effective March 1, 2018, your youngest child was no longer eligible for health insurance through NYSOH because he no longer wants to receive coverage.

Also on January 27, 2018, NYSOH issued a disenrollment notice stating that your youngest child's enrollment in CHP would end on February 28, 2018.

On April 25, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to May 10, 2018, to allow you time to submit supporting documents and to allow the Hearing Officer time to review telephone recordings. One telephone recording was reviewed.

Also on April 25, 2018, NYSOH received your supporting documents via fax. They were incorporated into the record as appellant's Exhibit #1 and the record was closed.

Findings of Fact

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

- 1) You testified that you are only appealing your youngest child's disenrollment from his CHP plan insofar as the termination of his coverage was effective February 28, 2018, instead of August 31, 2017.
- 2) Your NYSOH account indicates that your children were enrolled in a full cost CHP plan, effective March 1, 2017, and disenrolled effective March 31, 2017, for failure to pay premiums by the payment deadline.
- 3) You testified that you paid all premiums for your children in 2017, and that they had coverage as of March 1, 2017.
- 4) On January 4, 2018, NYSOH issued a plan enrollment notice, stating that your children's enrollment in a CHP plan was effective March 1,

2017, indicating that your children's coverage for 2017 had been reinstated by the health plan.

- 5) Your NYSOH account indicates that NYSOH was not aware that your children's CHP coverage was reinstated for 2017 by the plan until the January 4, 2018 plan enrollment notice.
- 6) You testified that your youngest child has been [REDACTED] in the [REDACTED] since [REDACTED], that he plans to return [REDACTED], and that he has had health insurance through his exchange program.
- 7) You submitted a [REDACTED] form, which indicates that your youngest child would be arriving in C [REDACTED] between [REDACTED], for a long-term exchange program.
- 8) You submitted a letter, dated May 1, 2017, which states that your youngest child had medical coverage from August 1, 2017 through August 1, 2018, through [REDACTED].
- 9) You also submitted a copy of his insurance card, which states that he is covered under [REDACTED] with a policy number [REDACTED].
- 10) Judicial notice is taken that the CISI website (www.myCISI.com) contains policy details, which state in relevant part that the insurance offered does not cover disease of any kind, bacterial infections, or sickness of any kind.
- 11) You testified that you contacted your children's CHP plan on September 15, 2017, in order to end your youngest child's coverage, and that they directed you to contact NYSOH.
- 12) You testified that you also contacted NYSOH on September 15, 2017, but that you were not able to disenroll your youngest child from his CHP coverage in September 2017, because NYSOH did not show that he had active coverage.
- 13) NYSOH does not have any record of a telephone call made by you to NYSOH on September 15, 2017, and no record was provided by you.
- 14) According to your NYSOH account and a telephone recording, you placed a call to NYSOH on November 28, 2017. During that call, you advised the representative that you had anticipated removing your youngest child from his CHP coverage in October 2017 because he had insurance through [REDACTED] program in the [REDACTED],

but that there was a chance he was going to come home. You requested that his CHP coverage be cancelled, but the NYSOH representative advised you that your children did not have active coverage through NYSOH.

- 15) Your NYSOH account indicates that your youngest child was disenrolled from his plan as of February 28, 2018.
- 16) You testified that your youngest child has not used his CHP coverage since August 2017.
- 17) You testified that you have paid all CHP premiums for your youngest child since August 2017.
- 18) You testified that you are seeking to have your youngest child's CHP coverage end as of August 31, 2017, because he was [REDACTED] and covered under separate coverage.

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

Applicable Law and Regulations

Child Health Plus

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

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

To be eligible for with or without subsidy, 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)).

A child is considered a resident of New York State if the child is residing in New York State, with or without a fixed address, or if New York State is the state of residency of the child's parent or caretaker with whom the child resides (State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

In certain circumstances, a child may be enrolled for covered health care services under CHP, but not eligible for premium subsidies if they have other health insurance (NY PHL § 2511 (5); see *also* NY PHL § 2511(2)(b) and (c)). When the policy is one of the "Excepted Benefits" set forth in the federal Public Health Service Act (NYSDOH 2008-2012 Model Contract), children remain eligible for CHP at full cost only. The exceptions are as follows:

- a. Accident only coverage or disability income insurance;
- b. Coverage issued as a supplement to liability insurance;
- c. Liability insurance, including auto insurance;
- d. Worker's compensation or similar insurance;
- e. Automobile medical payment insurance;
- f. Credit-only insurance;
- g. Coverage for on-site medical clinics;
- h. Dental-only, vision-only or long-term care insurance;
- i. Specified disease coverage;
- j. Hospital indemnity or other fixed dollar indemnity coverage; or
- k. Medicare supplemental only or CHAMPUS supplemental coverage

(NYSDOH 2008-2012 CHP Model Contract (Appendix C Section 4 Eligibility Criteria, Subsection .4 Health Insurance), 26 U.S.C. § 9832(c)).

The "period of eligibility" for 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)).

Disenrollment Date

The State plan must include a description of the state's policies governing enrollment and disenrollment (see 42 CFR § 457.305(b)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

If a child ceases to be eligible for CHP because the child no longer resides in New York State or gains access to or obtains other health insurance coverage,

the period of eligibility ends the last day of the month in which the child ceases to be an eligible child (NY Public Health Law §2510(6)(a)).

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date if requested by the enrollee (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your youngest child's CHP enrollment ended as of February 28, 2018.

NYSOH determined that your children were eligible for CHP at full cost, and they were enrolled in a CHP plan, effective March 1, 2017. On April 21, 2017, NYOH issued a disenrollment notice stating that your children's CHP coverage would end on March 31, 2017, because you did not pay your insurance bill by the payment deadline.

However, you credibly testified that you paid all premiums for your children to their CHP plan in 2017, and that they had coverage as of March 1, 2017. On January 4, 2018, NYSOH issued a plan enrollment notice stating that your children were enrolled in a CHP plan, effective March 1, 2017, confirming that your children's coverage for 2017 had been reinstated by the health plan and bringing your children's enrollment in your NYSOH account in line with the insurance contract in place between you and the CHP plan. Therefore, for the 2017 calendar year and purposes of this Decision, there is no dispute that your children were eligible for and enrolled in a CHP plan through NYSOH from March 1, 2017 through December 31, 2017.

You testified that your youngest child has been [REDACTED] in the [REDACTED] [REDACTED] since [REDACTED]. You submitted a [REDACTED] form, which indicates that your youngest child would be arriving in [REDACTED] between [REDACTED] for a long-term exchange program.

For purposes of CHP eligibility, a child is an eligible child and will remain enrolled for twelve months 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.

Although you testified that your youngest child has been out of the country, there is no indication that his residence or legal address has been updated in your account, and you testified that he intends to return to New York [REDACTED]. Therefore, your youngest child remains a NY state resident for the purposes of his continuing eligibility for CHP.

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).

You testified that your youngest child has insurance through his exchange program and submitted a letter, dated May 1, 2017, which states that he had medical coverage from [REDACTED] through [REDACTED] through CISI. You also submitted a copy of his insurance card, which states that he is covered under CISI's Plan A, with a policy number [REDACTED].

If a child ceases to be eligible for CHP because the child obtains other health insurance coverage, unless the policy is one of the "Excepted Benefits" set forth in the federal Public Health Service Act, the period of eligibility ends the last day of the month in which the child ceases to be an eligible child. Excepted benefits include accident only coverage.

Judicial notice is taken that the CISI website (www.myCISI.com) contains policy details, which state in relevant part that the insurance offered does not cover disease of any kind, bacterial infections, or sickness of any kind. It is therefore accident-only coverage. Since your youngest child's insurance coverage through his exchange program is accident-only coverage, it is not considered other health insurance for the purposes of CHP eligibility, and does not end your youngest child's period of eligibility. Therefore, the termination of your youngest child's CHP coverage must be determined by the date that you requested termination of coverage.

An enrollee may request to end their coverage for any reason at any time. If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date, if requested by the enrollee.

You testified that you contacted both the CHP plan and NYSOH on September 15, 2017, to request termination of your youngest child's coverage. However, NYSOH does not have any record of a telephone call made by you to NYSOH on September 15, 2017, and you have not provided any record of such call. The first record of a telephone call made by you to NYSOH regarding your youngest child's coverage was on November 28, 2017. During that call, you advised the representative that you had anticipated removing your youngest child from coverage in October 2017, because he had insurance through his exchange program in [REDACTED], but that there was a chance he was going to come home. Also during that call, you requested that his coverage be cancelled.

The credible evidence of record indicates that the first request to terminate your youngest child's CHP coverage was made on November 28, 2017. Since an enrollee's coverage ends on the first day of the month after the request is made, your youngest child's coverage should have ended on December 1, 2017.

Therefore, the January 27, 2018 discontinuance notice is MODIFIED to state that your youngest child is no longer eligible for CHP, effective December 1, 2017,

and the January 27, 2018 disenrollment notice is MODIFIED to state that your youngest child's enrollment in his plan ended effective November 30, 2017.

Your case is RETURNED to NYSOH to disenroll your youngest child from his CHP plan as of the end of November 30, 2017.

Decision

The January 27, 2018 discontinuance notice is MODIFIED to state that your youngest child is no longer eligible for CHP, effective December 1, 2017.

The January 27, 2018 disenrollment notice is MODIFIED to state that your youngest child's enrollment in his CHP plan ended effective November 30, 2017.

Your case is RETURNED to NYSOH to disenroll your youngest child from his CHP plan as of the end of November 30, 2017.

Effective Date of this Decision: May 16, 2018

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to disenroll your youngest child from his CHP plan as of the end of November 30, 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 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 27, 2018 discontinuance notice is MODIFIED to state that your youngest child is no longer eligible for CHP effective December 1, 2017.

The January 27, 2018 disenrollment notice is MODIFIED to state that your youngest child's enrollment in his CHP plan ended effective November 30, 2017.

Your youngest child's eligibility for and enrollment in his CHP plan should have ended as of the end of November 30, 2017.

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 RETURNED to NYSOH to disenroll your youngest child from his CHP plan as of the end of November 30, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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।

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).

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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