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

Notice of Decision

Decision Date: April 20, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027965

[redacted]

[redacted]

On March 22, 2018, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's January 21, 2018 disenrollment 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.

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: April 20, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027965

[redacted]

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, your spouse's and your youngest child's (child) enrollment in your respective health plans ended effective January 31, 2018?

Procedural History

On December 15, 2017, NYSOH issued an eligibility determination notice, based on your December 14, 2017 application, stating that you and your spouse were eligible to enroll in an Essential Plan and your child was eligible to enroll in a Child Health Plus (CHP) plan, effective January 1, 2018.

Also on December 15, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in your Essential Plan, with a monthly premium of $48.02 each and your child's enrollment in her CHP plan with a monthly premium of $9.00, effective January 1, 2018.

On January 21, 2018, NYSOH issued a disenrollment notice indicating your and your spouse's coverage in your Essential Plan and your child's coverage in her CHP plan would end effective January 31, 2018.

On January 29, 2018, you contacted the NYSOH Account Review Unit and appealed the date you and your spouse were disenrolled from your Essential Plan and the date your child was disenrolled from her CHP plan, requesting the disenrollment be made effective December 31, 2017.

On March 22, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was held open to April 7, 2018, for you to submit supporting documents.

As of April 7, 2018, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

Findings of Fact

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

1) Your spouse testified that you, your spouse, and your child had health insurance through the New York City Human Resources (HRA) in January 2018. She further testified that the only reason you applied for health insurance through NYSOH was because you were advised by [redacted] that you had no health coverage at the time you went in for a procedure.

2) Your spouse testified that sometime in January 2018, she contacted NYSOH to disenroll you both from your Essential Plan and your child from her CHP plan through NYSOH.

3) According to the Events Tab in your NYSOH account, you, your spouse, and your child were disenrolled systematically on January 20, 2018 due to "receiving Aid from eMedNY."

4) According to an eMedNY report, dated April 12, 2018, you and your spouse had Medicaid Fee-For Service and your child had CHP coverage through HRA in January 2018.

5) Your spouse testified that you would like to be reimbursed for the insurance premiums that she paid.

6) You testified that you and your spouse did not use your Essential Plan in the month of January 2018, but your child may have gone to see her doctor.

7) You testified that you are seeking retroactive disenrollment from your and your spouse's Essential Plan and your child's Child Health Plus plan effective January 1, 2018.

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

Applicable Law and Regulations

Essential Plan

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).

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 (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

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your, your spouse's and your child's enrollment in your respective health plans ended effective January 31, 2018.

On December 15, 2017, NYSOH issued a plan enrollment notice confirming your and your spouse's enrollment in your Essential Plan, with a monthly premium of $48.02 each and your child's enrollment in her CHP plan with a monthly premium of $9.00, all effective January 1, 2018.

On January 21, 2018, NYSOH issued a disenrollment notice indicating your and your spouse's coverage in your Essential Plan would end effective January 31, 2018.

You testified that you are seeking retroactive disenrollment from your and your spouse's Essential Plan and your child's CHP plan as of January 1, 2018.

According to an eMedNY report, dated April 12, 2018, you, your spouse had Medicaid Fee-For Service and your child had CHP coverage through HRA in January 2018.

One of the conditions under the law for an adult or a child to be eligible for the Essential Plan or Child Health Plus through NYSOH is that he or she must not have other health insurance coverage known as minimum essential coverage. As such, when NYSOH determines that an adult or child has active coverage in a health insurance plan outside of NYSOH, including Medicaid or CHP, he or she will not be eligible to enroll in either an Essential Plan or a CHP plan through NYSOH.

In your case, the credible evidence of record shows that you and your spouse were enrolled in Medicaid Fee-For Service and your child was enrolled in CHP through HRA in New York City for the month of January 2018, which constitutes minimum essential coverage. As such, NYSOH improperly determined that you, your spouse were eligible for the Essential Plan and your child was eligible for CHP through its Marketplace, effective January 1, 2018. Therefore, NYSOH's December 15, 2017 eligibility determination and plan enrollment notices are RESCINDED.

By this Decision, it is determined that you, your spouse and your child should not have had health coverage through NYSOH in January 2018, and NYSOH is directed to remove your respective enrollments for that month from the Essential Plan and CHP Plan and ensure the health plans are made aware to refund the premiums paid for coverage that month.

The January 23, 2018 disenrollment notice is rendered MOOT by this Decision.

Decision

The December 15, 2017 eligibility determination and plan enrollment notices are RESCINDED.

The January 23, 2018 disenrollment notice is rendered MOOT by this Decision.

Your case is RETURNED to NYSOH with the direction to remove your respective enrollments for January 2018 from the Essential Plan and CHP Plan and ensure the health plans are made aware to refund the premiums paid for coverage that month.

Effective Date of this Decision: April 20, 2018

How this Decision Affects Your Eligibility

By this Decision, it is determined that you, your spouse and your child should not have had health coverage through NYSOH in January 2018.

NYSOH is directed to effectuate the changes noted above and to notify you accordingly.

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 to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

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 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 15, 2017 eligibility determination and plan enrollment notices are RESCINDED.

The January 23, 2018 disenrollment notice is rendered MOOT by this Decision.

Your case is RETURNED to NYSOH with the direction to remove your respective enrollments for January 2018 from the Essential Plan and CHP Plan and ensure the health plans are made aware to refund the premiums paid for coverage that month.

By this Decision, it is determined that you, your spouse and your child should not have had health coverage through NYSOH in January 2018.

NYSOH is directed to effectuate the changes noted above and to notify you accordingly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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。我们可以为您免费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 مجانًا.

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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.

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).