



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

Notice of Decision

Decision Date: April 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028757

[REDACTED]

[REDACTED]

On April 6, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 15, 2017 eligibility determination 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 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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Decision

Decision Date: April 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028757

[REDACTED]

Issue

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

Did NY State of Health properly determine that your child's eligibility for and enrollment in Child Health Plus ended effective December 31, 2017?

Procedural History

On December 17, 2016, NY State of Health (NYSOH) issued an administrative renewal eligibility determination notice, based the system update of December 1, 2016, stating that your child was eligible to enroll in Child Health Plus (CHP) with a \$9.00 monthly premium, effective February 1, 2017. Your child was subsequently automatically enrolled in a CHP plan with Fidelis Care with a plan start date of February 1, 2017.

On December 2, 2017, NYSOH issued a renewal notice stating that it was time to renew your child's health insurance for the next coverage period. That notice was returned to NYSOH by the United States Postal Service as undeliverable and on December 14, 2017, the system noted that your mailing address was marked as invalid.

On December 14, 2017, NYSOH systematically redetermined your child's eligibility for financial assistance for health insurance.

On December 15, 2017, NYSOH issued an eligibility determination notice stating that your child was no longer eligible for health insurance through NYSOH,

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effective January 1, 2018. The notice stated this was because the mail sent to your household by NYSOH was returned by the post office as undeliverable.

Also on December 15, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in his CHP plan with Fidelis Care would end on December 31, 2017.

On January 23, 2018, you updated your household's application for financial assistance.

On January 24, 2018, NYSOH issued an eligibility determination notice stating, in part, that your child was eligible to enroll in CHP with a \$0.00 monthly premium, effective March 1, 2018.

Also on January 24, 2018, NYSOH issued an enrollment notice confirming in part, that your child was enrolled in CHP with Fidelis Care, with a plan enrollment start date of March 1, 2018.

On February 9, 2018 you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan insofar as there was a gap in his CHP coverage for the months of January 2018 and February 2018.

On April 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 support the following findings of fact:

- 1) You testified that you are appealing only your child's disenrollment from his CHP plan for the months of January 2018 and February 2018.
- 2) You testified, and the record reflects, that your child was enrolled with a CHP plan with a \$9.00 monthly premium, effective February 1, 2017.
- 3) The record reflects that your child was disenrolled from his CHP plan, effective December 31, 2017.
- 4) You testified, and the record reflects, that you receive all your notices from NYSOH by regular mail.
- 5) You testified that you and your family have resided at [REDACTED] [REDACTED] for over five years.

- 6) You testified that you did not receive the December 2, 2017 renewal notice, although you have received other mail from NYSOH at this address.
- 7) The record reflects that on December 2, 2016, NYSOH administratively changed your address to [REDACTED]
- 8) You testified that you did not change your address in your NYSOH account.
- 9) You testified that you were not aware your child had been disenrolled from his CHP plan until you took him to the doctor's office for [REDACTED] on [REDACTED].
- 10) According to your NYSOH account and your testimony, on January 23, 2018 you updated your NYSOH account and changed your mailing address back to [REDACTED]
- 11) According to your NYSOH account and your testimony, on January 23, 2018, you re-enrolled your child into a CHP plan.
- 12) You testified that you need your child's CHP plan to begin on January 1, 2018 because he has a doctor's bill of about [REDACTED] for the [REDACTED] office visit.

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

Applicable Law and Regulations

Child Health Plus

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)).

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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).

Child Health Plus 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 Child Health Plus 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP terminated effective December 31, 2017.

On December 17, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for CHP with a \$9.00 monthly premium, effective February 1, 2017. Your child was subsequently enrolled in a CHP plan.

For an applicant to remain eligible for enrollment in a CHP plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a resident of New York State.

On December 2, 2017, NYSOH mailed you a renewal notice for your child to [REDACTED], which was returned as undeliverable to NYSOH by the United States Postal Service on December 14, 2017.

On December 14, 2017, NYSOH redetermined your child's eligibility and issued a discontinuance notice on December 15, 2017, stating that your child was no longer eligible for health insurance through NYSOH effective January 1, 2018 because mail sent to you by NYSOH was returned by the United States Postal Service. NYSOH also issued a disenrollment notice, stating that your child was disenrolled from his CHP plan, effective December 31, 2017, because he was no longer for eligible or health insurance through NYSOH.

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A review of the record demonstrates that the December 2, 2017 renewal notice was returned as undeliverable through no fault of your own and that you and your child continued to meet the state residency requirement. You testified that you have resided with your family at [REDACTED] for over five years. You testified, and the record reflects that you had been receiving notices mailed by NYSOH to that address previously. The record reflects that on December 2, 2016, NYSOH administratively changed your address to "[REDACTED]." You testified that you did not change your address in your NYSOH account. Based on the evidence, it is reasonable to conclude that you and your child resided at [REDACTED] during the time in question, and that the notice was returned to NYSOH as the result of an error of NYSOH in administratively changing your mailing address. Accordingly, your child's disenrollment from his CHP plan was in error because he continued to meet the state residency requirement.

Therefore, the December 15, 2017 eligibility determination and plan disenrollment notices must be RESCINDED.

Decision

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

Your case is RETURNED to NYSOH to reinstate your child into his CHP plan for the months of January 2018 and February 2018 and to make any necessary changes to your address.

Effective Date of this Decision: April 18, 2018

How this Decision Affects Your Eligibility

Your child should not have been terminated from his CHP plan in December 2017 for failure to meet the state residency requirement.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of January 2018 and February 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

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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 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 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:

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- By mail at:
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- By fax: 1-855-900-5557

Summary

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

Your case is RETURNED to NYSOH to reinstate your child into his CHP plan for the months of January 2018 and February 2018.

Your child should not have been terminated from his CHP plan in December 2017 for failure to meet the state residency requirement.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan for the months of January 2018 and February 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&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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