



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

Notice of Decision

Decision Date: April 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028853

[REDACTED]

[REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2017 discontinuance notice and December 28, 2017 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028853

[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 child was no longer eligible for and disenrolled from her Child Health Plus plan, effective January 1, 2018?

Procedural History

On December 15, 2017, a Certified Application Counselor submitted an application for financial assistance with health insurance for your child.

On December 16, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus, effective January 1, 2018. This notice was mailed to [REDACTED].

Also on December 16, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan with a plan enrollment start date of January 1, 2018. This notice was mailed to [REDACTED]. This notice was returned to NYSOH by the U.S. Postal Service on December 26, 2017.

On December 28, 2017, NYSOH issued a discontinuance notice stating that your child was not qualified to enroll in coverage through NYSOH as notices sent to you by U.S. mail to the mailing address provided in your account were returned to NYSOH as undeliverable. This notice was mailed to [REDACTED],

██████████. This notice was returned to NYSOH by the U.S. Postal Service on January 4, 2018.

Also on December 28, 2017, NYSOH issued a disenrollment notice stating that your child's enrollment in her Child Health Plus plan would end effective January 1, 2018. This was because she was no longer eligible to enroll in health insurance through NYSOH. This notice was mailed to ██████████. This notice was returned to NYSOH by the U.S. Postal Service on January 4, 2018.

On February 13, 2018, you updated your child's application for financial assistance with health insurance. That day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible for Child Health Plus and you selected a plan for enrollment for your child that day.

Also on February 13, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your child was not enrolled in her Child Health Plus plan for the months of January 2018 and February 2018.

On February 14, 2018, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus, effective March 1, 2018.

Also on February 14, 2018, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a plan enrollment start date of March 1, 2018.

On April 17, 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 your family resides at ██████████. You further testified that you have lived at this address for three years. You explained that this address is on the border between ██████████. You testified that you have lived at this address the entire time your child has had coverage through NYSOH.
- 2) You testified that your child has been a resident of New York State her entire life.
- 3) You testified that your child attends school in New York State.

- 4) You testified that your family previously lived at [REDACTED].
- 5) You testified that when you moved, you contacted the postal service to report your move and to have your mail forwarded.
- 6) On May 31, 2016, a Certified Application Counselor submitted an application on your child's behalf. The mailing address listed in your account at that time was [REDACTED] and the residential address was [REDACTED].
- 7) On December 8, 2016, your residential and mailing address were updated to [REDACTED].
- 8) On December 9, 2016, NYSOH issued an eligibility determination notice and an enrollment confirmation notice, both were mailed to [REDACTED].
- 9) On December 9, 2016, NYSOH issued a notice of change in mailing address. This notice was mailed to [REDACTED] and indicated that NYSOH had received information from the U.S. Postal Service that your new address was [REDACTED].
- 10) On October 24, 2017, NYSOH issued a renewal notice. This notice was mailed to [REDACTED].
- 11) On February 13, 2018, your residential and mailing address were updated to [REDACTED].
- 12) On February 13, 2018, your mailing address was again updated to [REDACTED].
- 13) On February 14, 2018, NYSOH issued a notice of change in mailing address. This notice was mailed to [REDACTED] and indicated that NYSOH had received information from the U.S. Postal Service that your address had changed.
- 14) On April 14, 2018, your mailing address was updated to [REDACTED].
- 15) No mail sent by NYSOH to [REDACTED] has been returned as undeliverable.
- 16) You testified that your child had no coverage outside of NYSOH in 2017. You testified that your child had dental coverage outside of NYSOH in 2018, but no medical coverage.

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17) You testified that you are seeking for your child to be reinstated into her Child Health Plus plan as of January 1, 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

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 PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

To be eligible for CHP, a child must be a resident of New York State (NY PHL § 2511(2)(e), State Plan, approved July 16, 2010 and effective October 1, 2009). 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).

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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was no longer eligible for and disenrolled from her Child Health Plus plan, effective January 1, 2018.

Your child was found eligible for Child Health Plus in the December 16, 2017 eligibility determination notice, effective January 1, 2018. Your child was enrolled in a Child Health Plus plan with a plan enrollment start date of January 1, 2018, as is noted in the December 16, 2017 enrollment confirmation notice.

On December 26, 2017, the December 16, 2017 enrollment confirmation notice was returned to NYSOH by the U.S. Postal Service as undeliverable.

On December 28, 2017, NYSOH issued a discontinuance notice stating that your child was not qualified to enroll through NYSOH as notices sent to you by U.S. mail to the mailing address provided in your account were returned to NYSOH as undeliverable. Your child was disenrolled from her Child Health Plus plan as of January 1, 2018.

In order to be eligible for Child Health Plus, a child must be a resident of New York State.

You testified that your child has lived in New York State her entire life and that your family has continuously resided at [REDACTED] for three years.

On December 9, 2016, NYSOH issued a notice of change in mailing address. This notice indicated that NYSOH had received information from the U.S. Postal Service that your new address was [REDACTED]. The December 9, 2016 eligibility determination notice and December 9, 2016 enrollment confirmation notice were sent to [REDACTED]. However, beginning with the October 24, 2017 renewal notice, NYSOH began sending notices to your previous address, [REDACTED]. It is unclear from the record why NYSOH reverted to mailing notices to this previous address.

No notices sent to you at [REDACTED] have been returned.

As there is sufficient evidence in the record to conclude that your child has continuously retained New York State residency during the relevant time period, your child was improperly disenrolled from her Child Health Plus plan as of January 1, 2018 for failure to meet residency requirements. There are no other facts present in the record that would support your child being disenrolled from her Child Health Plus plan.

Therefore, the December 28, 2017 discontinuance notice and the December 28, 2017 disenrollment notice are RESCINDED.

Accordingly, your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan, effective January 1, 2018.

Decision

The December 28, 2017 discontinuance notice is RESCINDED.

The December 28, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan, effective January 1, 2018.

Effective Date of this Decision: April 23, 2018

How this Decision Affects Your Eligibility

Your child's Child Health Plus coverage should not have terminated as of January 1, 2018.

Your case is being sent back to NYSOH to reenroll your child into her Child Health Plus plan as of January 1, 2018.

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.

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 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:

- 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

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).

The December 28, 2017 discontinuance notice is RESCINDED.

The December 28, 2017 disenrollment notice is RESCINDED.

Your child's Child Health Plus coverage should not have terminated as of January 1, 2018.

Your case is being sent back to NYSOH to reenroll your child into her Child Health Plus plan as of January 1, 2018.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan, effective January 1, 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 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।

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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 okyerE 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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