

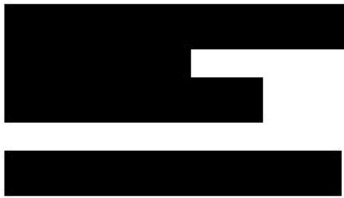


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: April 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Numbers: AP000000029148



On April 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 9, 2018 plan enrollment 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 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 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Numbers: AP000000029148

[REDACTED]

Issue

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

Did NY State of Health (NYSOH) properly enroll your eldest child (child) in a qualified health plan (QHP) with an enrollment start date of March 1, 2018?

Procedural History

On October 12, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was eligible for Child Health Plus, with a \$60.00 premium per month, effective November 1, 2017.

Also on October 12, 2017, NYSOH issued a plan enrollment notice confirming that as of October 11, 2017, your child was enrolled in a Child Health Plus plan with an enrollment start date of November 1, 2017.

On December 21, 2017, your NYSOH account was systemically updated.

On December 22, 2017, NYSOH issued three notices:

- (1) An eligibility determination notice stating, in relevant part, that your child was eligible for a tax credit up to \$0.00 per month and no longer qualified for Child Health Plus as of January 31, 2018. The notice stated that your child was no longer eligible for Child Health Plus because they were over the age of 18;

(2) A plan enrollment notice stating, in relevant part, that your child's health coverage with a QHP would not begin until a plan was chosen.

(3) A disenrollment notice stating, in relevant part, that your child's Child Health Plus coverage would end as of January 31, 2018.

On February 8, 2018, your NYSOH account was updated.

On February 9, 2018, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was eligible up to \$0.00 monthly of advance payment for a premium tax credit (APTC) for a limited time, effective as of March 1, 2018. The notice instructed you to submit additional income documentation by May 9, 2018, to confirm your child's eligibility.

Also on February 9, 2018, NYSOH issued a plan enrollment notice confirming that as of February 8, 2018, your child was enrolled in a QHP with an enrollment start date of March 1, 2018.

On February 21, 2018, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the enrollment start date of your child's QHP.

On April 12, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken and the record was fully developed during the hearing. The record was closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account, your eldest child (child) was born on [REDACTED].
- 2) According to your account, on October 11, 2017, your child was [REDACTED] and determined eligible for Child Health Plan and enrolled in a health plan.
- 3) You testified that you did not receive any notice from NYSOH stating that your child's Child Health Plus coverage was ending and that you needed to select a QHP.
- 4) According to your NYSOH account and testimony, you receive notices from NYSOH electronically.
- 5) You testified that the email address listed in your NYSOH account is your current email address.

- 6) You testified that you did not receive any email from NYSOH during the month of December 2017 that a notice was posted to your account.
- 7) You testified that you found out that your child's Child Health Plus coverage had been discontinued when attempting to fill a prescription on or around [REDACTED].
- 8) According to your NYSOH account, on February 8, 2018, your child was enrolled in a QHP.
- 9) You testified that you want your child to be enrolled in health insurance coverage for the month February 2018, to cover any medical costs that were incurred.

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

Applicable Law and Regulations

Child Health Plus – Continuous Coverage

The “period of eligibility” for CHP 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” (NY Public Health Law § 2510(6)).

However, a child is not eligible for twelve months of continuous eligibility if:

- The child attains the age of 19;
- The child or child's representative requests voluntary disenrollment;
- The child is no longer a resident of the state;
- The agency determines that eligibility was erroneously granted because of agency error or fraud, abuse, or perjury attributed to the child or the child's representative;
- The child dies;
- Failure to pay required premiums or enrollment fees;
- The child becomes Medicaid eligible;
- The child has obtained other health insurance;
- The child has obtained access to a state health benefits plan subsequent to the initial/renewal period;

(see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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).

Child Health Plus – Notice Requirement

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow coverage to continue without interruption (42 CFR § 457.340(e)(1)(D)(ii), (iii)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the individual elects to receive electronic communications, NYSOH must send an email or other electronic communication alerting the individual when a notice has been posted to his or her account and send a notice by regular mail within three business days if the electronic communication cannot be delivered (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4), (5)).

QHP Effective Date – Special Enrollment Period:

Upon making an initial eligibility determination, NYSOH must implement the eligibility determination for enrollment in a QHP, APTC, and CSR, in accordance with 45 CFR §155.410(c), (f) and §155.420(b), as applicable (45 CFR § 155.310(f)(1)).

NYSOH must allow a qualified individual or his or her dependent to enroll in a QHP if the qualified individual or their dependent loses minimum essential coverage (45 CFR § 155.420(d)(1)(i)).

Generally, the effective date for a QHP is the first day of the following month if the enrollment is received by NYSOH on or before the fifteenth day of the month, and enrollments received after the fifteenth day of the month are effective the first day of the second following month (45 CFR § 155.420(b)(1)).

When an individual loses minimum essential coverage, if the plan selection is made on or before the date of the loss of coverage, NYSOH must ensure that the coverage effective date is on the first day of the month following the loss of coverage. If the plan selection is made after the date of the loss of coverage, NYSOH must ensure that coverage is effective with the regular effective dates or the first day of the following month (45 CFR § 155.420(b)(iv)).

Legal Analysis

The issue under review is whether NYSOH properly enrolled your child in a QHP plan with an enrollment start date of March 1, 2018.

On October 12, 2017, NYSOH issued notices stating that your child was eligible for and enrolled in a Child Health Plus plan with an enrollment start date of November 1, 2017.

Generally, once a child is determined eligible for Child Health Plus, they are guaranteed 12 months of coverage. This twelve-month period commences on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment. However, a child is not eligible for twelve months of continuous eligibility if the child attains the age of 19.

The record reflects that on December 21, 2017, your NYSOH account was systemically updated, and your child was determined eligible for a tax credit up to \$0.00 per month and no longer qualified for Child Health Plus as of January 31, 2018 because they were going to be over the age of 18.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow their health insurance coverage to continue without interruption.

On December 22, 2017, NYSOH posted notices to your NYSOH account informing you of your child's eligibility and instructing you to enroll your child in a QHP.

You testified that you did not receive any notice stating that your child's Child Health Plus coverage was ending and that you needed to select a QHP. NYSOH asserts that it complied with the federal regulations regarding electronic notices; however, there is no evidence in the record that NYSOH sent you an electronic alert in December 2017 notifying you that notices were available in your NYSOH account. Further, there is also no evidence in your account documenting that the email alert was successful or if a subsequent notice was sent by regular mail within three business days.

Therefore, there is sufficient evidence in the record that NYSOH did not provide you with proper notice of your child's eligibility to allow your child's health insurance coverage to continue without interruption.

The record reflects that your child's Child Health Plus coverage ended as of January 31, 2018.

If the applicant selects the QHP before their minimum essential coverage has ended, NYSOH must ensure that the coverage and financial assistance is effective on the first day of the month following the loss of coverage.

Based on the analysis above, you were not provided proper notice that your child's Child Health Plus was ending January 31, 2018, and that you needed to select a QHP. Therefore, you were not given the opportunity to select a QHP before your child's coverage was discontinued.

As such, the February 9, 2018 plan enrollment notice is MODIFIED to state that your child was enrolled in a QHP with an enrollment start date of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your child's QHP coverage for the month of February 2018, and to notify you accordingly.

Decision

The February 9, 2018 plan enrollment notice is MODIFIED to state that your child was enrolled in a QHP with an enrollment start date of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your child's QHP coverage for the month of February 2018, and to notify you accordingly.

Effective Date of this Decision: April 24, 2018

How this Decision Affects Your Eligibility

Your child's Child Health Plus coverage properly ended as of January 31, 2018.

Since NYSOH failed to give you proper notice to avoid a gap in your child's coverage, your case is being sent back to NYSOH to enroll them in a QHP with an enrollment start date of February 1, 2018. NYSOH will notify you once this has been done.

You will be responsible for paying the health insurance premium to the QHP directly to effectuate this coverage.

If You Disagree with this Decision (Appeal Rights)

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).

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 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

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Summary

The February 9, 2018 plan enrollment notice is MODIFIED to state that your child was enrolled in a QHP with an enrollment start date of February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your child's QHP coverage for the month of February 2018, and to notify you accordingly.

Your child's Child Health Plus coverage properly ended as of January 31, 2018.

Since NYSOH failed to give you proper notice to avoid a gap in your child's coverage, your case is being sent back to NYSOH to enroll them in a QHP with an enrollment start date of February 1, 2018. NYSOH will notify you once this has been done.

You will be responsible for paying the health insurance premium to the QHP directly to effectuate this coverage.

Legal Authority

We are sending you this notice 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।

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 मददत 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 srε wo, frε 1-855-355-5777. ye&εtumi 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.

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).