



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

Notice of Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029374



Dear [REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's October 4, 2017 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 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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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did you provide a timely appeal request of the October 4, 2017 plan enrollment notice?

Did NY State of Health properly determine that your child's enrollment in his Child Health Plus plan was effective November 1, 2017?

Procedural History

On August 31, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating your child was eligible for Medicaid, effective October 1, 2016. You enrolled your child in a Medicaid Managed Care plan, effective October 1, 2016.

On August 2, 2017, NYSOH issued a renewal notice stating based on the information for state and federal data sources a decision could not be made about whether your child qualified for financial assistance. The notice directed you to update the information in your NYSOH account by September 15, 2017 and, if you missed this deadline, your child was in danger of losing your coverage and financial assistance.

On August 16, 2017, NYSOH received your child's updated application for financial assistance. That day a preliminary eligibility determination was made stating the information you provided did not match what NYSOH obtained from state and federal data sources.

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On August 17, 2017, NYSOH issued a notice stating you selected to get information from NYSOH by email.

On August 17, 2017, NYSOH stated your child's coverage in his Medicaid Managed Care plan would end on September 30, 2017, because he was no longer eligible to enroll in that plan.

On August 28, 2017, NYSOH received your child's updated application for financial assistance.

On August 29, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus for a cost of \$9.00 per month, effective October 1, 2017.

On August 29, 2017, NYSOH issued a plan enrollment notice stating action was required, please pick a health plan now, and your child's coverage with Child Health Plus would not begin until you picked a plan.

On October 4, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan on September 20, 2017, with an enrollment start date of November 1, 2017.

On February 26, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin October 1, 2017.

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 held open for telephone call recordings to be produced by NYSOH. On May 2, 2018, NYSOH Appeals Unit received a copy of one call recording made on August 30, 2017. It was reviewed and the record was closed thereafter.

Findings of Fact

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

- 1) You testified that you are appealing only your child's enrollment start date of his Child Health Plus plan, requesting a start date of October 1, 2017.
- 2) You submitted an application to NYSOH for financial assistance for your child on August 28, 2017.
- 3) You testified that you contacted NYSOH on August 30, 2017, because you had an alert issued to your email address but could not access that notice in your account.

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- 4) A review of the call made to NYSOH on August 30, 2017, indicates that you contacted NYSOH and a NYSOH agent explained you were going to be transferred to another department and were given a number to contact in case you got disconnected. The call was then ended. No other calls were produced by NYSOH for that day.
- 5) On October 3, 2017 you submitted a complaint to NYSOH that you called on August 30, 2017, because you received a notice in your inbox but could not access the notice. You testified that you called to find out what the notice said, but a NYSOH agent told you were enrolled but not to pick a Child Health plus plan for your child (see Incident [REDACTED]).
- 6) You testified, and your NYSOH account indicates, that you enrolled your child into a Child Health Plus plan on October 3, 2017.
- 7) You testified that you need your child's Child Health Plus plan to begin on October 1, 2017, because your child had an [REDACTED] visit in that month and you have medical bills that were not covered.
- 8) Your application states you and your child reside in [REDACTED], NY.

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

Applicable Law and Regulations

Timely Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

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

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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)).

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The first issue under review is whether you provided a timely appeal request of the October 4, 2017, enrollment confirmation notice.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their eligibility determination notice as issued by NYSOH. For an appeal to have been valid on the issue of your child’s enrollment start date in a Child Health Plus plan, as addressed in the October 4, 2017 plan enrollment notice, an appeal would have to have been requested by December 3, 2017.

According to the credible evidence of record, you contacted NYSOH on October 3, 2017, to request a new enrollment start date for your child’s Child Health Plus plan (see Incident [REDACTED]). A formal appeal was not filed until February 26, 2018. Since the record supports you requested a new enrollment start date for your child in a prior incident which was recorded by NYSOH within the 60-day time period from the October 3, 2017 notice, your appeal is considered timely. NYSOH’s Appeals Unit may therefore address the merits of your appeal.

The second issue under review is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan was effective November 1, 2017.

The record supports your child's eligibility for Child Health Plus was up for renewal for another year as stated in a renewal notice issued to you on August 2, 2017. You then submitted an updated and completed application for your child on August 28, 2017. The result of this application was that your child was eligible for Child Health Plus for a cost of \$9.00 per month, effective October 1, 2017. A notice was issued to you via email on August 29, 2017, stating you could now pick a plan for your child.

You testified that you contacted NYSOH on August 30, 2017, because you had an alert issued to your email address but could not access that notice in your account. On October 3, 2017, you submitted a complaint to NYSOH explaining you called on August 30, 2017, because you received a notice in your inbox but could not access the notice. You called to find out what the notice said but a NYSOH agent told you were enrolled but did not tell you to pick a Child Health plus plan for your child (see, Incident [REDACTED]).

A review of the call made to NYSOH on August 30, 2017, indicates that you contacted NYSOH that day and a NYSOH agent explained you were going to be transferred to another department and were given a number to contact in case you got disconnected. The call was then ended. No other calls were produced by NYSOH for that day. Therefore, it cannot be determined if any error was made during your outreach to NYSOH as there is no call that was produced for August 30, 2017, other than the one described.

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account. It has been established that NYSOH sent the proper notification of your child's eligibility for Child Health Plus and you acknowledged receiving a message that a notice was waiting in your account. It was then your duty to gain access to that account to retrieve the message, change your method of contact, or follow up with additional contacts to NYSOH to ensure your child's application and enrollment was completed.

The record shows you next contacted NYSOH on September 20, 2017, and enrolled your child into a Child Health Plus plan.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

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Since your child was enrolled in a plan on September 20, 2017, his coverage would properly start the first day of the second month following September 2017; that is, on November 1, 2017.

Therefore, the October 4, 2017 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan was effective November 1, 2017, is correct and must be AFFIRMED.

Decision

Your appeal of the October 4, 2017 plan enrollment notice was timely.

The October 4, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: May 8, 2018

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan is November 1, 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 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

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- 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

Your appeal of the October 4, 2017 plan enrollment notice was timely.

The October 4, 2017 plan enrollment notice is AFFIRMED.

The effective date of your child's Child Health Plus plan is November 1, 2017.

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 मदद 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. yeb&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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