

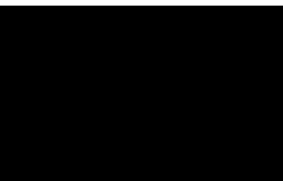


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029762



Dear [REDACTED]

On May 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 7, 2018 eligibility determination notice and the February 21, 2018 eligibility determination and enrollment confirmation 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 25, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029762



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 his Child Health Plus plan was effective April 1, 2018?

Procedural History

On February 6, 2018, you and your spouse contacted NYSOH to update your application. In particular, you and your spouse added your newborn to your application. Your application type was also changed from financial to non-financial at that time.

On February 7, 2018, NYSOH issued an eligibility determination notice, based on a non-financial application processed on February 6, 2018, stating in relevant part, that your child was conditionally eligible for a qualified health plan at full cost, effective March 1, 2018. This notice further stated that your child did not qualify to select a health plan outside of the open enrollment period for 2018.

On February 20, 2017, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared finding, in relevant part, your child eligible to enroll into a Child Health Plus plan with a \$45.00 monthly premium, effective April 1, 2018. Also that day, you selected a plan for his enrollment.

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On February 21, 2018, NYSOH issued an eligibility determination stating, in relevant part, that your child was eligible to enroll in a Child Health Plus plan with a \$45.00 monthly premium, effective April 1, 2018.

Also on February 21, 2018, NYSOH issued a notice of enrollment, confirming your child's enrollment in a Child Health Plus plan with a \$45.00 monthly premium, effective April 1, 2018.

On March 5, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan.

On May 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you waived your right to the 15-day formal notice of hearing and gave the Hearing Officer permission to listen to phone calls you had with NYSOH. There were 20 calls on record for the months of February, March and April 2018. The record is now closed.

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 Child Health Plus plan start date.
- 2) According to your NYSOH account and testimony, your child was born on [REDACTED] [REDACTED] [REDACTED]
- 3) According to your NYSOH account, your child was added to your account on February 6, 2018, and a non-financial application was submitted that same day.
- 4) According to your NYSOH account, your child was found conditionally eligible for a qualified health plan at full cost, effective March 1, 2018.
- 5) A review of the telephone call you made to NYSOH on February 6, 2018 demonstrates the following:
 - a. You and your spouse indicated that you were calling to add your child to your health insurance;
 - b. The NYSOH representative began to add your child and process your application as a non-financial application;
 - c. You and your spouse were unclear of the difference between a non-financial and financial application;

- d. Once the NYSOH representative adequately explained the differences, you and your spouse elected to apply for financial assistance;
 - e. Before the NYSOH representative could complete your financial application, your call was disconnected; and
 - f. Although the NYSOH representative took your contact information at the beginning of the call and advised you that he would call you back if the call was disconnected, the phone records reflect that he did not call you back.
- 6) A review of the telephone call you made to NYSOH on February 13, 2018 demonstrates the following:
- a. You indicated that you were calling to enroll your child in Child Health Plus;
 - b. The NYSOH representative could not locate your account with your name, date of birth, and social security number;
 - c. The NYSOH representative advised you that you were removed from your account and she could not assist you with continuing your child's application for Child Health Plus; and
 - d. The NYSOH representative advised you that you need to reapply for health insurance in order for your child to receive Child Health Plus and the fastest way to do so was to apply online.
- 7) On February 20, 2018, you contacted NYSOH and you were finally able to complete an application for financial assistance. You enrolled your child into a Child Health Plus plan on that day.
- 8) According to your NYSOH account, your child's Child Health Plus plan coverage with a \$45.00 monthly premium began as of April 1, 2018.
- 9) You testified that your child [REDACTED] in March and incurred medical bills that were not covered.

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

Applicable Law and Regulations

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 NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

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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,” 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into CHP, the date of enrollment shall be the date of the child’s birth if the parent applied for insurance prior to the child’s birth or within 60 days after the child’s birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child’s eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2018.

Your child was born [REDACTED], and on February 6, 2018, your child was added to your NYSOH account. A non-financial application was submitted that day, and your child was found eligible for a full pay qualified health plan, effective March 1, 2018.

A review of your telephone records with NYSOH demonstrate that when you and your spouse contacted NYSOH on February 6, 2018, you intended to add your child to your account and apply for financial assistance. However, your call was disconnected before your financial application was completed and a non-financial application was processed causing your child to be determined eligible for a full cost qualified health plan. The NYSOH representative advised you on February 6, 2018 that he would call you back if the call was disconnected, but failed to do so. Additionally, when you called NYSOH back on February 13, 2018, you were given erroneous information that you were removed from your account, despite being the account holder, and the NYSOH representative did not assist you in completing your application.

Since the record reflects that the February 6, 2018 application was processed as a non-financial application in error and you were subsequently unable to complete your application on February 13, 2018 through no fault of your own, the February 7, 2018, eligibility determination notice stating, in relevant part, that your child was eligible for a full cost qualified health plan effective March 1, 2018 is RESCINDED.

You completed a financial application on February 20, 2018. On that day, your child was found eligible for Child Health Plus, with a \$45.00 monthly premium, effective April 1, 2018. You enrolled your child into a plan on February 20, 2018.

Ordinarily, the date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. If an application is received after the 15th of the month, coverage begins the first day of the second following month. Further, section 2511 of the Public Health Law has been amended to provide that CHP coverage shall be retroactive to the first day of the month of birth for newborns, effective January 1, 2017, provided that the application for coverage on behalf of the child was made prior to, or within sixty days of, the child's birth.

However, the credible evidence in the record indicates that your financial application was not completed on February 6, 2018 when you called to add your child to your NYSOH account. Had you submitted a financial application on February 6, 2018, the Appeal's Unit assumes that you would have submitted the same information you submitted on February 20, 2018 and your child would have been found eligible to enroll in a Child Health Plus plan with a \$45.00 monthly premium and you would have been able to select a plan for your child's enrollment that day.

Further, your child was born on [REDACTED] and you added him to your NYSOH account on February 6, 2018; which was within sixty days of his birth. As a result, your child's Child Health Plus plan should have started the first day of the month of his birth; which was [REDACTED].

Therefore, the February 21, 2018 eligibility determination and plan enrollment notices stating, in relevant part, that your child's eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2018 are MODIFIED to reflect an eligibility effective date and enrollment start date of December 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of December 1, 2017, and notify you accordingly.

Decision

The February 7, 2018 eligibility determination notice stating, in relevant part, that your child is eligible for a full cost qualified health plan, effective March 1, 2018 is RESCINDED.

The February 21, 2018 eligibility determination and enrollment notices stating, in relevant part, that your child's eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2018, are MODIFIED to reflect an eligibility effective date and enrollment start date of December 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of December 1, 2017, and notify you accordingly.

Effective Date of this Decision: May 25, 2018

How this Decision Affects Your Eligibility

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

Your case is being sent back to NYSOH to ensure that your child is enrolled into his Child Health Plus plan with a \$45.00 monthly premium as of December 1, 2017.

You will be responsible for any premium payments for the months your child is enrolled into coverage.

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

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Summary

The February 7, 2018 eligibility determination notice stating, in relevant part, that your child is eligible for a full cost qualified health plan, effective March 1, 2018 is **RESCINDED**.

The February 21, 2018 eligibility determination and enrollment notices stating, in relevant part, that your child's eligibility for and enrollment in his Child Health Plus plan was effective April 1, 2018, are **MODIFIED** to reflect an eligibility effective date and enrollment start date of December 1, 2017.

Your case is **RETURNED** to NYSOH to enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of December 1, 2017, and notify you accordingly.

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

You will be responsible for any premium payments for the months your child is enrolled into coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:



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 1-855-355-5777번으로 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&etumi 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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