



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

## Notice of Decision

Decision Date: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007485

[REDACTED]

Dear [REDACTED],

On August 16, 2016, your daughter appeared by telephone at a hearing on your appeal of NY State of Health's May 28, 2015 and June 5, 2015 cancellation 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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: August 23, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007485



## Issue

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

Was your appeal of the NY State of Health's May 28, 2015 and June 5, 2015 cancellation notices timely?

## Procedural History

On May 5, 2015, your NY State of Health (NYSOH) account was updated.

On May 6, 2015, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your two children were eligible for Medicaid, effective May 1, 2015.

On May 7, 2015, NYSOH issued an enrollment confirmation notice confirming your family's enrollment in Medicaid effective May 1, 2015. The notice further stated that your son did not need to choose a health plan, and advised you that you, your spouse, and your daughter needed to pick a Medicaid Managed Care (MMC) plan. The notice further stated that you needed to pick a health plan soon or one would be chosen for you.

On May 8, 2015, NYSOH issued an enrollment confirmation confirming the enrollment of you, your spouse, and your daughter in a United Healthcare MMC plan, effective June 1, 2015.

On May 27, 2015, you updated your NYSOH account.

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On May 28, 2015, NYSOH issued an eligibility determination stating that you, your spouse, and your children were eligible for Medicaid, effective May 1, 2015.

Also on May 28, 2015, NYSOH issued an enrollment confirmation, confirming the enrollment of you, your spouse, and your children in a United Healthcare MMC plan, effective June 1, 2015.

Lastly on May 28, 2015, NYSOH issued a cancellation notice, stating that your family's enrollment in your United Healthcare MMC plan coverage was cancelled, effective June 1, 2015.

On June 4, 2015, your NYSOH account was updated.

On June 5, 2015, NYSOH issued a cancellation notice stating that your request to cancel insurance coverage with United Healthcare on June 4, 2015 was received, and that you, your spouse, and your children would not have coverage in your United Healthcare MMC plan.

That same day, NYSOH issued a notice stating that you, your spouse, and your children were eligible for Medicaid, effective June 1, 2015.

Also on June 5, 2015, NYSOH issued a notice of enrolment confirmation, confirming that you and your son were enrolled in an EmblemHealth MMC, and your spouse and daughter were enrolled in a Healthfirst MMC, effective July 1, 2015.

On February 29, 2016, you spoke with NYSOH's Account Review Unit and filed a formal appeal based on the May 28, 2015 and June 5, 2015 cancellation notices, insofar as your daughter's coverage in her United Healthcare MMC plan was terminated June 1, 2015.

On August 16, 2016, your daughter 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) Your daughter testified that this appeal is solely regarding her MMC coverage for the month of June 2015, and not the rest of the household's MMC coverage in that month.

- 2) Your daughter testified that she needs her United Healthcare MMC plan coverage to be active for the month of June 2015 because she had medical appointments in that month for which she now has bills.
- 3) Your daughter testified that she never requested for her June 2015 MMC plan coverage to be cancelled, and she is not aware of anyone else in the household making such a request.
- 4) The record reflects that the first time you called NYSOH to file a complaint with regard to your daughter's lack of MMC coverage in June 2015 was on February 29, 2016.
- 5) Your daughter testified that you she first discovered that there was a problem with her coverage in July 2015. She further testified that she originally tried to deal with the issue through her doctor's office, and that they were trying to resolve the issue.
- 6) Your daughter testified that she does not recall receiving either the May 28, 2015 cancellation notice or the June 5, 2015 cancellation notice.
- 7) The record reflects, and your daughter's testimony confirmed, that you receive notices from NYSOH by regular mail.
- 8) The record reflects that you have not had a change of address since you first enrolled in coverage through NYSOH.
- 9) No notices have been returned as undeliverable to NYSOH.
- 10) Your daughter testified that thought she first filed for an appeal in November 2015, however she could not recall whether it was with NYSOH or United Healthcare.
- 11) The record indicates that you first contacted NYSOH to file a complaint regarding your daughter's MMC coverage on February 29, 2016, and that a formal appeal was filed on your behalf on that day.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax

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credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

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)).

## **Legal Analysis**

The only issue under review is whether your appeal of NYSOH's May 28, 2015 and June 5, 2015 cancellation notices was timely.

On May 28, 2015 and June 5, 2015, NYSOH issued cancellation notices indicating that your family's coverage in your MMC plan was cancelled as of June 1, 2015.

The record reflects that the first time you called NYSOH to file a complaint in regards to the fact that your daughter did not have MMC plan coverage in June 2015 was on February 29, 2016. The record indicates that a formal appeal was filed on your behalf on that day.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the cancellation of your daughter's MMC plan coverage as stated in the May 28, 2015 notice, an appeal should have been filed by July 27, 2015, and for an appeal of the June 5, 2015 cancellation notice to have been valid, it would have to have been filed by August 4, 2015. According to the credible evidence in the record, you did not contact NYSOH until February 29, 2016 to file a formal appeal, which is well beyond 60 days from the May 28, 2015 and June 5, 2015 cancellation notices. Your daughter testified that she did not receive these cancellation notices, and that she was trying to resolve the issue with her doctor's office.

However, neither of the cancellation notices was returned to NYSOH as undeliverable. Moreover, your daughter testified at the hearing that she knew there was a problem with her coverage as of July 2015, at which point a timely appeal could have been filed. However, she tried to resolve the issue with her doctor's office instead, and did not contact NYSOH until February 29, 2016.

Therefore, there has been no timely appeal of the May 28, 2015 or June 5, 2015 cancellation notices, and your appeal on the issue of the cancellation of your daughter's MMC plan for the month of June 2015, as stated in those notices, is DISMISSED.

## **Decision**

Your appeal of the May 28, 2015 and June 5, 2015 cancellation notices is untimely and is DISMISSED.

**Effective Date of this Decision:** August 23, 2016

## **How this Decision Affects Your Eligibility**

Your daughter's MMC plan coverage started on July 1, 2015.

Your daughter did not have MMC plan coverage in the month of June 2015.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

Your appeal of the May 28, 2015 and June 5, 2015 cancellation notices is untimely and is DISMISSED.

Your daughter's MMC plan coverage started on July 1, 2015.

Your daughter did not have MMC plan coverage in the month of June 2015.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).



**A Copy of this Decision Has Been Provided To:**

