



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

Notice of Decision

Decision Date: January 19, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000008985

[REDACTED]

[REDACTED]

On November 7, 2016, [REDACTED] appeared by telephone at a hearing on your appeal of NY State of Health's April 5, 2016 cancellation notice relative to your children.

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.

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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NY State of Health Number: [REDACTED]
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Issue

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

Did NY State of Health (NYSOH) properly notify you that your children were disenrolled from their Child Health Plus plan for nonpayment of premium, effective March 31, 2016?

Procedural History

On January 26, 2016, NYSOH issued an eligibility determination notice stating in part that your children were eligible to enroll in Child Health Plus with a \$15.00 monthly premium each, effective March 1, 2016.

On January 26, 2016, NYSOH issued an enrollment confirmation notice stating in part that your children were enrolled in a Child Health Plus plan, effective January 1, 2016 with a \$30.00 total monthly premium.

On April 5, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in their Child Health Plus plan terminated effective March 31, 2016, because premium payment(s) had not been received by their health plan. The notice also stated that you must pay your premium responsibility with the required timeframe in order to maintain coverage.

Also on April 5, 2016, NYSOH issued an enrollment confirmation notice confirming in part that the Child Health Plus plan you selected for your children on April 4, 2016 would resume on May 1, 2016.

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On April 19, 2016, you spoke to NYSOH's Account Review Unit and appealed that start date insofar as your children were not re-enrolled in their Child Health Plus plan as of April 1, 2016.

On November 7, 2016, 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 up to fifteen days to allow you to submit health plan invoices to show you had a zero balance due for March 2016 and April 2016

Those documents were timely received and made part of the record, which is now closed.

Findings of Fact

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

- 1) According to your NYSOH account, you elected to receive communications from NYSOH electronically; that is, you were to receive an email alert when documents were available in your NYSOH account to review.
- 2) Your spouse testified that you did not receive any such alerts regarding your children being terminated from their coverage for nonpayment of premium nor any notice to this effect by regular mail.
- 3) Your spouse testified that you received two invoices showing that no premium was due on your children's health plan.
- 4) Your spouse testified that you both are seeking to have your children's coverage in their Child Health Plus plan reinstated as of April 1, 2016, because you incurred medical expenses for your one child that month.

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

Applicable Law and Regulations

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 (45 CFR § 155.230(d); 42 CFR §435.918(b)(4)).

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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 issue under review is whether NYSOH properly gave you notice that your children were disenrolled from their Child Health Plus plan, effective March 31, 2016.

Your children were originally enrolled in Child Health Plus, effective January 1, 2016.

They were disenrolled effective March 31, 2016, because of an alleged nonpayment of premium, which is in part the basis for your appeal.

Ordinarily, the Appeals Unit does not have jurisdiction over nonpayment of premium cases, but your spouse also testified that you did not receive notice that your children's coverage had been terminated for nonpayment of premium. This latter issue is appealable and one that NYSOH has the authority to review.

Your spouse testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Your spouse credibly testified that you did not receive any electronic alert regarding the disenrollment notice that stated your children had been disenrolled from their Child Health Plus plan, effective March 31, 2016. There is no evidence in your NYSOH account showing that any email alert was sent to you regarding their disenrollment, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

As such, it is concluded that NYSOH did not give you the required notice that your children had been disenrolled from their Child Health Plus plan, effective March 31, 2016.

Therefore, the April 5, 2016 disenrollment notice is **RESCINDED** and the April 5, 2016 enrollment confirmation notice is **MODIFIED** to state that your children's enrollment in their Child Health Plus plan was effective April 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2016, and to notify you accordingly.

Decision

The April 5, 2016 disenrollment notice is RESCINDED.

The April 5, 2016 enrollment confirmation notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan was effective April 1, 2016.

Your case is RETURNED to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2016, and to notify you accordingly.

Effective Date of this Decision: January 19, 2017

How this Decision Affects Your Eligibility

Your children remained eligible for Child Health Plus, effective April 1, 2016, with a \$30.00 total monthly premium and, once coverage is restored, will have no gap in coverage for that month.

If applicable, you will be responsible for paying the Child Health Plus plan the premium owed for that month.

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 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 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.

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If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

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- By fax: 1-855-900-5557

Summary

The April 5, 2016 disenrollment notice is **RESCINDED**.

The April 5, 2016 enrollment confirmation notice is **MODIFIED** to state that your children's enrollment in their Child Health Plus plan was effective April 1, 2016.

Your case is **RETURNED** to NYSOH to reinstate your children's coverage in their Child Health Plus plan, effective April 1, 2016, and to notify you accordingly.

Your children remained eligible for Child Health Plus, effective April 1, 2016, with a \$30.00 total monthly premium and, once coverage is restored, will have no gap in coverage for that month.

If applicable, you will be responsible for paying the Child Health Plus plan the premium owed for that month.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

