



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

Notice of Decision

Decision Date: March 14, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012103

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 5, 2016 disenrollment 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012103



Issue

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

Did the NY State of Health properly determine that your children were disenrolled from their Child Health Plus plan was effective October 31, 2016?

Procedural History

On December 8, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your December 7, 2015 application, stating that your two children were eligible to enroll in Child Health Plus (CHP) with a \$45.00 monthly premium each, effective January 1, 2016

Also on December 8, 2015 NYSOH issued an enrollment notice confirming your children's enrollment in a CHP Plan, with Excellus BCBS, effective December 1, 2015.

On September 20, 2016, you spoke to NYSOH's Account Review Unit and appealed your children being disenrolled from their CHP plan effective July 31, 2016 on the basis that you did not make timely payment of premium.

On October 5, 2016, NYSOH issued a disenrollment notice stating it had processed your request to end insurance coverage for your children with Excellus BCBS, effective October 31, 2016.

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).

Also on October 5, 2016, NYSOH issued an enrollment notice confirming that your children were enrolled in a CHP plan with Excellus BCBS effective November 1, 2016, with a \$90.00 per month premium.

On January 18, 2016 you 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) You testified that you are appealing only your children's eligibility for and disenrollment from their CHP Plan effective July 31, 2016.
- 2) You testified that your children were disenrolled from their CHP plan with Excellus BCBS as of July 31, 2016.
- 3) You testified that you paid the July 2016 premium of \$90.00 on time and the CHP plan was holding that premium until resolution of this appeal.
- 4) You testified that you first learned your children were disenrolled from their CHP plan when you took them to the doctor in August 2016 and were told their insurance was cancelled.
- 5) You testified that you incurred about \$200.00 to \$300.00 in medical expenses and have outstanding medical bills.
- 6) You further testified that you did not receive any cancellation notice from the health plan or NYSOH.
- 7) According to your NYSOH account, you filed a complaint [REDACTED] with NYSOH on September 20, 2016, at which time NYSOH indicated it had no record of your children's disenrollment from the CHP plan and that you were requesting to have your children's CHP coverage reinstated with an August 1, 2016 start date.
- 8) According to your NYSOH account, this complaint was the basis for your appeal and the complaint remained unresolved as it related to the health plan reinstating coverage as of the date of your hearing.
- 9) You testified that NYSOH informed you in the beginning of October 2016 that there was no [REDACTED] submitted by the health plan and it was best to sign your children up for November 1, 2016, in an effort to correct the matter.

10) As a result, on October 5, 2016, NYSOH disenrolled your children from their Excellus BCBS CHP plan as of October 31, 2016 and re-enrolled them in the same CHP plan as of November 1, 2016.

11) You testified that you are seeking to have your children reinstated in their CHP plan for the months of August 2016, September 2016, and October 2016.

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

Applicable Law and Regulations

Appealable Issues

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 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)).

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)).

Notice – Terminating Enrollment

NYSOH may initiate termination of an enrollee's enrollment in a health plan through NYSOH and must permit a health plan issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a health plan through NYSOH with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

For Marketplace-initiated terminations where the enrollee is no longer eligible for coverage in a health plan through NYSOH, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely; or
- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which the Marketplace is notified on the change.

(45 CFR § 155.330(f)(1)(i)-(iii)).

Legal Analysis

Initially, it is noted that your appeal was requested to dispute your children being disenrolled from their CHP plan by the health plan as of July 31, 2016 for nonpayment of premium and not being re-enrolled by NYSOH until November 1, 2016, resulting in a three-month gap in their health insurance coverage. Since this issue relates to health insurance coverage and payment of premium ordinarily it would not be an issue that the NY State of Health Appeals Unit is authorized to address.

However, it is clear from the record that the CHP plan did not and has not yet formally notified NYSOH of your children's disenrollment as of July 31, 2016. For this reason, the merits of your appeal will be analyzed.

NYSOH and health plans must provide enrollees with 14 days' written notice that their coverage with a health plan, including CHP, will be terminated. If NYSOH of the health plan cannot provide 14 days' written notice, the effective date of termination is the last day of the month after 14 days' written notice has been provided.

The record reflects that NYSOH sent you a disenrollment notice on October 5, 2016, which stated that your children's health insurance coverage with Excellus BCBS was terminated, effective October 31, 2016, at your request. In fact, that disenrollment notice was issued by NYSOH to allow you to re-enroll your children as of November 1, 2016, since your children had been disenrolled on the CHP plan's end as of July 31, 2016 and that health plan never sent you or NYSOH formal notice of your children's cancellation of coverage as of that date due to nonpayment of premium.

Ordinarily and as stated above, cancellation of health plan coverage due to nonpayment of premium is not an appealable issue over which the Appeals Unit has jurisdiction. However, the circumstances in your case suggest that you did not receive timely or adequate notice from your children's CHP plan and NYSOH was not provided the requisite [REDACTED] from that insurer in order to provide you with timely notice that your children's coverage was being terminated. In fact, you credibly testified you only learned your children had been disenrolled during an August 2016 doctor's appointment. You also credibly testified that you had submitted \$90.00 premium payment for coverage in July 2016, which the CHP Plan was holding.

The record reflects that as the date of this Decision, Excellus BCBS has not formally notified NYSOH of the cancellation of your children's coverage, effective July 31, 2016. Nor has an explanation as to the reason been provided. Fourteen days' written notice of termination of coverage or enrollment is required, which means notice should have been sent no later than July 17, 2016.

The record further reflects that NYSOH issued a disenrollment notice on October 5, 2016 stating that your children's coverage in their Excellus BCBS CHP plan would end October 31, 2016 and an enrollment notice confirming that their coverage in that same CHP plan would resume November 1, 2016, which is in keeping with the 14 days' written notice rule.

Therefore, based on the complete record, you were not provided with reasonable notice by Excellus BCBS of the termination of your children's CHP plan such that their coverage was improperly terminated effective July 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your children's CHP plan with Excellus BCBS as of August 1, 2016 through October 31, 2016. Thereafter, your children's enrollment in that same plan as of November 1, 2016, as stated in the October 5, 2016 enrollment notice, remains in effect.

You will be responsible for paying the monthly premiums for August 2016, September 2016, and October 2016. Any credits to be applied can be arranged directly with your children's CHP plan.

Decision

You were not provided with reasonable notice by Excellus BCBS of the termination of your children's CHP plan such that their coverage was improperly terminated effective July 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your children's CHP plan with Excellus BCBS as of August 1, 2016 through October 31, 2016, and to notify you accordingly. Thereafter, your children's enrollment in that same plan as of November 1, 2016, as stated in the October 5, 2016 enrollment notice, remains in effect.

Effective Date of this Decision: March 14, 2017

How this Decision Affects Your Eligibility

NYSOH will facilitate reinstatement of your children's coverage in their Excellus BCBS CHP plan from August 1, 2016 through October 31, 2016. NYSOH will notify you once this has been done.

The effective date of your children's CHP Plan thereafter is November 1, 2016 for the remainder of that policy year.

You will be responsible for paying the monthly premiums to your children's CHP plan for August 2016, September 2016, and October 2016. Any credits to be applied can be arranged directly with their health plan.

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 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).

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

You were not provided with reasonable notice by Excellus BCBS of the termination of your children's CHP plan such that their coverage was improperly terminated effective July 31, 2016.

Your case is RETURNED to NYSOH to facilitate re-instatement of your children's CHP plan with Excellus BCBS as of August 1, 2016 through October 31, 2016, and to notify you accordingly. Thereafter, your children's enrollment in that same plan as of November 1, 2016, as stated in the October 5, 2016 enrollment notice, remains in effect.

NYSOH will facilitate reinstatement of your children's coverage in their Excellus BCBS CHP plan from August 1, 2016 through October 31, 2016. NYSOH will notify you once this has been done.

The effective date of your children's CHP Plan thereafter is November 1, 2016 for the remainder of that policy year.

You will be responsible for paying the monthly premiums to your children's CHP plan for August 2016, September 2016, and October 2016. Any credits to be applied can be arranged directly with their health plan.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

