



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

Notice of Decision

Decision Date: March 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012876

[REDACTED]

Dear [REDACTED]

On February 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 15, 2016 cancellation notice and the October 26, 2016 eligibility 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 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).

This page intentionally left blank.



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

Decision

Decision Date: March 28, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012876

[REDACTED]

Issues

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

Can the Appeals Unit of NY State of Health (NYSOH) consider your appeal regarding the disenrollment your children from their Child Health Plus plan for non-payment of premium?

Did NYSOH properly determine your children's reenrollment in their Child Health Plus plan was not effective until December 1, 2016?

Procedural History

On August 13, 2016, NYSOH issued an eligibility determination notice, based on your August 12, 2016 updated application, stating your children were eligible to enroll in Child Health Plus with \$15.00 monthly premiums each, effective September 1, 2016.

Also on August 13, 2016, NYSOH issued an enrollment confirmation notice stating your children were enrolled in a Child Health Plus plan with a \$30.00 monthly premium, effective September 1, 2016.

On September 15, 2016, NYSOH issued a cancellation notice stating your children's Child Health Plus plan was terminated, effective September 1, 2016, because a premium payment had not been received by their health plan.

On October 25, 2016, you updated your children's application for health insurance.

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).

On October 26, 2016, NYSOH issued an eligibility determination notice stating your children were eligible to enroll in Child Health Plus with \$15.00 monthly premiums each, effective December 1, 2016.

Also on October 26, 2016, NYSOH issued an enrollment confirmation notice, based on your October 25, 2016 plan selection, stating your children were enrolled in a Child Health Plus plan with a \$30.00 monthly premium, effective December 1, 2016.

On October 27, 2016, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their health plan and the start date of their new health plan insofar as your children did not have continuous coverage beginning September 1, 2016.

On February 10, 2016, you had 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 you tried to apply for health insurance through NYSOH several times in June and August 2016 but you were told your children could not enroll through NYSOH because records were showing they were enrolled in outside coverage.
- 2) Your account indicates NYSOH received your children's original application for health insurance on June 28, 2016. At that time, you were directed to provide proof of your household's income by July 13, 2016, because the income information attested to in the application did not match federal and state data sources.
- 3) NYSOH did not receive proof of your household's income by the deadline and your children's eligibility was redetermined without this information resulting in their ineligibility for financial assistance.
- 4) You contacted NYSOH on August 12, 2016 and updated your children's application and increased the amount of attested household income. At this time, your children were enrolled in a Child Health Plus plan with YourCare for a \$30.00 monthly premium, effective September 1, 2016.
- 5) You testified that your children were enrolled in a Child Health Plus plan with YourCare (health plan) through your local department of social services prior to applying for health insurance through NYSOH.

- 6) You testified you never received a bill from the health plan.
- 7) You testified you paid the health plan \$60.00 in August 2016. You were not sure if this was for back coverage or if this included the September 2016 premium payment.
- 8) You testified you paid the health plan \$30.00 on September 11, 2016.
- 9) You testified you spoke to the health plan and you were advised they did not receive the payment for September 2016.
- 10) You testified you did not receive the September 15, 2016 cancellation notice from NYSOH.
- 11) You confirmed the address on the September 15, 2016 notice was your correct mailing address at the time.
- 12) There is no record of cancellation notice being returned to NYSOH as undeliverable.
- 13) You testified you did not learn your children's health plan was terminated until you sought medical treatment for them on [REDACTED].
- 14) You testified, and NYSOH's records confirm, that you contacted NYSOH on October 25, 2016 to update your children's application for health insurance.
- 15) You testified, and your account confirms, that you enrolled your children in a new Child Health Plus plan on the same day. This plan became effective December 1, 2016.
- 16) You testified your children were without health coverage from May 1, 2016 to November 30, 2016.
- 17) You testified you continued to make payments to the health plan during the time your children were without coverage. You testified a representative from the health plan advised you that all of the payments you made on the cancelled policies would be credited to the new policies, and therefore, your children's premiums would be paid until May 2017.
- 18) You testified this did not happen and you have been required to make additional premium payments in 2017.
- 19) You testified you are seeking to have your children reinstated in their Child Health Plus plan for September, October, and November 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).

Alternatively, you are seeking the money you paid to the health plan on your children's cancelled policy to either be refunded or credited to their new plan.

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)).

"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 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).

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).

Legal Analysis

The first issue is whether the Appeals Unit of NY State of Health (NYSOH) consider your appeal regarding the disenrollment your children from their Child Health Plus plan for non-payment of premium.

The New York State of Health Appeals Unit only has the authority to review issues related to the following: (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 and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your children were properly disenrolled from their health plan for non-payment of premiums. Therefore, your appeal of the September 15, 2016 cancellation notice is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined your children's reenrollment in their Child Health Plus plan was not effective until December 1, 2016.

You testified you did not receive the September 15, 2016 cancellation notice issued by NYSOH stating your children's Child Health Plus plan was terminated, effective September 1, 2016. However, you confirmed the address on this notice was your correct mailing address at the time. Further, there is no record of that notice being returned to NYSOH as undeliverable. Accordingly, it is concluded NYSOH provided you with the proper notification that your children's Child Health Plus plan was terminated.

You testified, and your account confirms, you first contacted NYSOH about reenrolling your children on October 25, 2016.

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.

In the present case, since you selected a health plan for your children on October 25, 2016, after the fifteenth day of the month, the plan goes into effect on the first day of the second following month; that is December 1, 2016.

Therefore, the October 26, 2016 enrollment confirmation notice stating your children's enrollment in their Child Health Plus plan was effective December 1, 2016, is correct and must be AFFIRMED.

Decision

Your appeal of the September 15, 2016 cancellation notice is DISMISSED.

The October 26, 2016 enrollment confirmation notice is correct and must be AFFIRMED.

Effective Date of this Decision: March 28, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The start date of your children's Child Health Plus plan is December 1, 2016.

However, you credibly testified you continued to send payments to the health plan after your children's plan was cancelled and you have not received a refund or a credit for those premium payments. Accordingly, your case is referred to Plan Management to investigate whether you are due a refund or credit and to facilitate the appropriate action.

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 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 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

Summary

Your appeal of the September 15, 2016 cancellation notice is **DISMISSED**.

The October 26, 2016 enrollment confirmation notice is correct and must be **AFFIRMED**.

The start date of your children's reenrollment in their Child Health Plus plan remains December 1, 2016.

Your case is referred to Plan Management to investigate whether you are due a refund or credit and to facilitate the appropriate action.

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).

Legal Authority

We are issuing this determination in accordance with 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).

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।

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).

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.

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).