



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

## Notice of Decision

Decision Date: March 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013861

[REDACTED]

Dear [REDACTED]

On March 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 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 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 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013861

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your son's enrollment in his Child Health Plus plan ended effective November 30, 2016?

## Procedural History

On September 15, 2016, NYSOH issued an eligibility determination notice stating that your son was eligible to enroll in a Child Health Plus plan, at full cost, effective October 1, 2016.

Also on September 15, 2016, NYSOH issued an enrollment notice confirming your son's enrollment in a Child Health Plus plan, effective October 1, 2016.

On November 5, 2016, NYSOH issued a disenrollment notice indicating that coverage in your son's Child Health Plus plan would end effective November 30, 2016.

On December 7, 2016 you contacted the NYSOH Account Review Unit and appealed the date your son was disenrolled from his Child Health Plus plan, requesting the disenrollment be made effective October 31, 2016.

On March 3, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

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).

## Findings of Fact

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

- 1) You testified that your son became eligible for insurance through your spouse's employer as of November 1, 2016.
- 2) You testified that on November 4, 2016 you contacted NYSOH to disenroll your son from his Child Health Plus plan through NYSOH.
- 3) You testified that you paid a premium to your Child Health Plus plan for the month of November 2016.
- 4) You testified that your son did not use his Child Health Plus plan in the month of November 2016.
- 5) You testified that you are seeking retroactive disenrollment from your son's Child Health Plus plan, effective October 31, 2016.

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

## Applicable Law and Regulations

### Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.
- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your son's enrollment in his Child Health Plus plan ended effective November 30, 2016.

On September 15, 2016, NYSOH issued an eligibility determination notice stating that your son was eligible to enroll in a Child Health Plus plan, effective October 1, 2016. You subsequently enrolled your son into a plan.

On November 5, 2016, NYSOH issued a disenrollment notice indicating that your son would be disenrolled from his Child Health Plus plan effective November 30, 2016.

You testified that you are seeking retroactive disenrollment from your son's Child Health Plus plan, effective October 31, 2016.

NYSOH must permit an enrollee to be retroactively disenroll from their Child Health Plus plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in

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).

the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a Child Health Plus plan without their knowledge or consent by a third party.

There is no indication in the record that your enrollment in a Child Health Plus plan as confirmed in the September 15, 2016 enrollment confirmation notice was unintentional, inadvertent, or erroneous, nor was your enrollment in a Child Health Plus the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Furthermore, there is no indication that your enrollment in a Child Health Plus plan as confirmed in the September 15, 2016 enrollment confirmation notice was without your knowledge or consent.

Therefore, there is no basis to find that NYSOH must permit you to retroactively terminate or cancel your son's enrollment in his Child Health Plus plan.

The record reflects that on November 4, 2016, you contacted NYSOH and requested that your son be disenrolled from his Child Health Plus plan as you no longer wanted him to remain enrolled.

Enrollees must be allowed to terminate their coverage with a Child Health Plus plan at the date they specify if they provide reasonable notice to NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your Child Health Plus plan effective November 30, 2016, which is the last day of the month following your request.

Since you do not qualify to be retroactively disenrolled from your son's coverage and you did not provide reasonable notice to NYSOH, NYSOH properly determined that your son's disenrollment in his Child Health Plus plan was effective November 30, 2016.

Therefore, the November 5, 2016 disenrollment notice is AFFIRMED.

## **Decision**

The November 5, 2016 disenrollment notice is AFFIRMED.

**Effective Date of this Decision:** March 23, 2017

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).

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

This decision does not change your son's disenrollment date. Your son's enrollment in his Child Health Plus plan ended as of November 30, 2016.

## **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.

## **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

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).

## **Summary**

The November 5, 2016 disenrollment notice is AFFIRMED.

This decision does not change your son's disenrollment date. Your son's enrollment in his Child Health Plus plan ended as of November 30, 2016.

## **Legal Authority**

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



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

