



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

Notice of Decision

Decision Date: August 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015889

[REDACTED]

Dear [REDACTED],

On July 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 29, 2016, cancellation 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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Issues

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

Did you provide a timely request for an appeal of NY State of Health's May 29, 2016 cancellation notice?

Did NY State of Health properly determine that your child's enrollment in his Child Health Plus plan was no longer effective July 1, 2016?

Procedural History

On May 28, 2016, NY State of Health (NYSOH) received your child's initial application for financial assistance with his health insurance.

On May 29, 2016, NYSOH issued a notice of eligibility determination, based on your child's May 28, 2016, application, stating that he was eligible to enroll in Child Health Plus for a limited time with a \$45.00 monthly premium, effective July 1, 2016. The notice asked that you provide proof of your income by July 27, 2016 and your child's Citizenship Status and Social Security Number by August 26, 2016.

On May 29, 2016, NYSOH issued a notice of enrollment, based on your plan selection on May 28, 2016, stating that your child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start July 1, 2016.

On May 29, 2016, NYSOH issued a cancellation notice stating your request to cancel your child's Child Health Plus plan was received on May 28, 2016. The

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notice stated your child's enrollment in that plan would end, effective July 1, 2016.

On August 5, 2016, NYSOH issued a notice of eligibility determination stating your child was newly conditionally eligible to purchase a qualified health plan at full cost, effective September 1, 2016. The notice stated your child no longer qualified for Child Health Plus because NYSOH could not verify the income listed in your application.

On September 1, 2016, NYSOH redetermined your child's eligibility.

On September 2, 2016, NYSOH issued a notice of eligibility determination stating your child was no longer eligible for coverage through NYSOH. The notice stated you did not provide the information to confirm your child's Citizenship Status and Social Security Number. The notice stated his eligibility ended, effective September 30, 2016.

On September 9, 2016, NYSOH received your child's updated application for financial assistance.

On September 10, 2016, NYSOH issued a notice of eligibility determination stating your child was eligible for Child Health Plus at a cost of \$45.00 per month for a limited time, effective October 1, 2016. The notice requested that you provide proof of your income by November 8, 2016.

On September 10, 2016, NYSOH issued an enrollment notice confirming your child's enrollment on September 9, 2016, in a Child Health Plus plan with a start date of October 1, 2016.

On February 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your child from his Child Health Plus plan July 1, 2016.

On July 14, 2017, 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 child's Child Health Plus enrollment.
- 2) Your child was born on [REDACTED].

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- 3) You submitted an application for your child to NYSOH for financial assistance on May 28, 2016.
- 4) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on May 28, 2016.
- 5) Your NYSOH account shows that your child's enrollment in his Child Health Plus plan was cancelled on May 28, 2016.
- 6) You testified you believed your child had been enrolled into a Child Health Plus plan, and that the start date was July 1, 2016.
- 7) You testified you did not request that your child's enrollment be terminated on May 28, 2016.
- 8) You testified that you need your child's Child Health Plus plan to begin on July 1, 2016 because you have outstanding medical bills that were not covered during the months of July, August, and September, 2016.
- 9) A request was placed by the Hearing Officer to review the phone conversation between yourself and the NYSOH customer service representative on May 28, 2016. NYSOH was unable to produce this recording.
- 10) NYSOH provided a recording of the phone conversation between yourself and a member of the NYSOH Account Review Unit on May 28, 2016, in which you request to have your child placed on your qualified health plan for the month of June, 2016.
- 11) You testified you first appealed the start date of your child's Child Health Plus plan with your health plan in December, 2016, as a result of a request by your doctor's office for outstanding medical bills.
- 12) You testified you first requested an appeal through NYSOH in January, 2017, after your health plan denied your request in December, 2016.
- 13) The record supports an appeal was formally filed on February 15, 2017.

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

Applicable Law and Regulations

Child Health Plus

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 “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).

Child Health Plus Disenrollment Date

The State plan must include a description of the state’s policies governing enrollment and disenrollment (see 42 CFR § 457.305(b)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee’s request or effective on a future date if requested by the enrollee (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.2)).

Timely Appeal Requests

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

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The first issue is whether you provided a timely request for an appeal of NYSOH's May 29, 2016 cancellation notice.

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 disenrollment of your child from his Child's Child Health Plus plan, as addressed in the May 29, 2016 cancellation notice, an appeal should have been filed by July 28, 2016.

According to the credible evidence in the record, you did not contact NYSOH until February 15, 2017, to file a formal complaint an appeal was not filed until this date. Both of these dates are well beyond 60 days from the May 29, 2016 cancellation notice.

However, you testified you first appealed the start date of your child's Child Health Plus plan with your health plan in December, 2016, as a result of a request by your doctor's office for outstanding medical bills. You testified you then requested an appeal through NYSOH in January, 2017, after your health plan denied your request in December, 2016.

Since the record supports you were not aware of your child's outstanding medical bills until December, 2016, and had pursued that appeal through your health plan first before coming to NYSOH to request an appeal, your request is considered timely.

The second issue is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan terminated effective July 1, 2016.

You testified that you contacted NYSOH on May 28, 2016 and enrolled your child into a Child Health Plus plan. On May 29, 2016, NYSOH issued an enrollment notices confirming that your child was enrolled into a Child Health Plus plan, effective July 1, 2016.

However, it appears that your child's enrollment in his Child Health Plus plan was canceled the same day you had requested his enrollment. This is confirmed by a May 29, 2016, cancellation notice stating your request to cancel your child's Child Health Plus plan was received and that his enrollment was terminated effective July 1, 2016.

Enrollees may request disenrollment from their Child Health Plus plan at any time. If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request, or effective on a future date if requested by the enrollee.

You testified you never requested to cancel your child's enrollment in his Child Health Plus plan on May 28, 2016.

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The Hearing Officer requested a recording of the call between you and the NYSOH representative that took place on May 28, 2016 to confirm whether or not you requested your child's enrollment be terminated. NYSOH has been unable to produce the requested phone recording. Since you credibly testified that you did not request for your child to be disenrolled from his Child Health Plus plan, and NYSOH has failed to produce evidence that contradicts this testimony, the May 29, 2016, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus plan effective July 1, 2016.

Decision

Your February 15, 2017 request for an appeal was timely.

The May 29, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus plan effective July 1, 2016.

Effective Date of this Decision: August 18, 2017

How this Decision Affects Your Eligibility

The effective date of your child's Child Health Plus plan is July 1, 2016.

Your case is being sent back to NYSOH to ensure his enrollment.

You will be responsible for any premiums owed for your child's enrollment as of July 1, 2016.

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.

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).

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 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 February 15, 2017 request for an appeal was timely.

The May 29, 2016 disenrollment notice is **RESCINDED**.

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The effective date of your child's Child Health Plus plan is July 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child in his Child Health Plus plan effective July 1, 2016.

You will be responsible for any premiums owed for your child's enrollment as of July 1, 2016.

Legal Authority

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

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。我们可以为您免费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)

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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।

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 okyer& 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 איר געבן א דאלמענטשער 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).

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