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

Notice of Decision

Decision Date: June 01, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015919

[redacted]

Dear [redacted],

On May 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 25, 2016 and October 27, 2016 disenrollment, eligibility determination, and enrollment 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.

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).

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

Decision

Decision Date: June 01, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000015919

[redacted]

Issues

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

> Did NY State of Health (NYSOH) properly determine that your children's eligibility for and enrollment in their Child Health Plus plan ended effective September 30, 2016?
>
> Did NYSOH properly determine that your children's eligibility for and enrollment in their Child Health Plus plan resumed no earlier than December 1, 2016?

Procedural History

On June 14, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a Child Health Plus health insurance plan or a child-only plan, effective July 1, 2016.

Also on June 14, 2016, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan, effective July 1, 2016.

On August 25, 2016, NYSOH issued a disenrollment notice, advising you that your children's insurance through NYSOH was being terminated, effective September 30, 2016. The notice advised you to contact NSYOH if you had any questions about this notice.

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, you resubmitted an application for insurance for your children.

On October 27, 2016, NYSOH issued an eligibility determination notice stating that your children were again eligible to enroll in Child Health Plus, effective December 1, 2016.

Also on October 27, 2016, NYSOH issued an enrollment confirmation notice stating that your children were reenrolled in a Child Health Plus plan, effective December 1, 2016.

On February 16, 2016, you spoke to NYSOH's Account Review Unit and requested a formal appeal of your children's disenrollment from their Child Health Plus plan, effective September 30, 2016.

On May 17, 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) Your account shows that you receive your notices from NYSOH by regular mail. No notices sent to you by NYSOH have been returned as undeliverable.

2) You testified that you were only appealing your children's disenrollment from their Child Health Plus plan for the months of October and November of 2016.

3) On August 24, 2016, you called NYSOH, and your children were subsequently disenrolled from their Child Health Plus coverage after September 30, 2016.

4) You appealed this termination, because you felt that the coverage was ended without your consent.

5) At your hearing, you testified that your children had had coverage through Child Health Plus outside of NYSOH with UnitedHealthcare, and when they became enrolled in Child Health Plus coverage through NYSOH, you selected the same plan, intending to end the outside coverage. You did not intend to end their coverage through NYSOH.

6) The recording of the August 24, 2016 phone call between you and NYSOH has been reviewed in its entirety. In that call, the NYSOH representative explained to you that you were speaking with NYSOH, or the Marketplace, and you confirmed that you wanted to speak to "the state." You asked for your children's coverage to end, and to take them off the account. The representative asked you if you realized you were talking to NYSOH, and not your plan, and you said you did, and wanted to disenroll them from the account in the Marketplace. You were asked if you knew you were speaking to "the state," and you asked if you this was UnitedHealthCare. The representative told you it was not, it was the Marketplace. You then asked if it was Oxford UnitedHealthCare, and you were again told it was NYSOH. At the end of the call, the representative asked for permission to disenroll your children from coverage through NYSOH, and you agreed.

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)).

Child Health Plus

NYSOH is required to provide written notice to an applicant of any decision affecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When

Child Health Plus coverage is denied, suspended, or terminated, NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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 month following an application 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* State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in their Child Health Plus plan ended effective September 30, 2016.

A review of the phone call from August 24, 2016 indicates that although at times you appeared to be unsure of the entity you were speaking to, you were advised several times that you were speaking to NYSOH, or the Marketplace, and not to your plan. You were asked if you wanted to end your children's coverage through NYSOH, and you said that you did.

An individual must be allowed to end their coverage through NYSOH, as long as the appropriate notice is given.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, it is required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from her Child Health Plus plan was dated August 25, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of August 30, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month.

The children's coverage ended effective September 30, 2016, which was more than a month after your call. The notice confirming this disenrollment was sent to you on August 25, 2016, and it was not returned to NYSOH as undeliverable.

Since you would have received NYSOH's notice terminating your child's Child Health Plus eligibility on August 30, 2016, as long as you contacted NYSOH before September 15, 2016, you would have been able to prevent a gap in coverage caused by the September 30, 2016 end date.

The Appeals Unit finds that the appropriate notice of the termination of your children's coverage was sent to you, and you did not object in a timely fashion. There would have been ample opportunity to reenroll your children in coverage, without any gap in coverage, had you contacted NYSOH on or before September 15, 2016. Additionally, the NYSOH representative was required to respect your request, and end your children's coverage through NYSOH, even if you made the request in error.

Therefore, it is found that your children's coverage was appropriately ended effective September 30, 2016.

The second issue under review is whether NYSOH appropriately found that your children's reenrollment was effective no earlier than December 1, 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.

You resubmitted an application for insurance for your children on October 26, 2016; therefore, the October 27, 2017 notice of eligibility determination stating that your children's enrollment in their Child Health Plus plan was December 1, 2016, is correct and must be AFFIRMED.

Decision

The August 25, 2016 and October 27, 2016 disenrollment, eligibility determination, and enrollment notices are AFFIRMED.

Effective Date of this Decision: June 01, 2017

How this Decision Affects Your Eligibility

Your children's eligibility for and enrollment in a CHP plan will not be changed by this decision.

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 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 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 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

The August 25, 2016 and October 27, 2016 disenrollment, eligibility determination, and enrollment notices are AFFIRMED.

Your children's eligibility for and enrollment in a CHP plan will not be changed by this decision.

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:

[redacted]

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).

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 مجانًا.

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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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).