



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

Notice of Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015987

[REDACTED]

Dear [REDACTED]

On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 17, 2016 cancellation notice and the September 30, 2016 enrollment confirmation 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).

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Decision

Decision Date: October 4, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015987



Issues

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

Was your appeal of NY State of Health's (NYSOH) April 17, 2016 cancellation notice and the September 30, 2016 enrollment confirmation notice timely?

Did NYSOH properly terminate your children's Child Health Plus plan for non-payment of premium effective, April 1, 2016?

Did NYSOH properly determine that your children's reenrollment in their Child Health Plus plan was effective November 1, 2016?

Procedural History

On March 10, 2016, NYSOH issued a notice of eligibility determination, based on your March 9, 2016 application, stating that your children were conditionally eligible for Child Health Plus effective April 1, 2016. You were directed to produce income documentation by May 7, 2016.

Also on March 10, 2016, NYSOH issued a notice of enrollment, stating that your children were enrolled in a Child Health Plus plan, and that this enrollment would start April 1, 2016.

On April 17, 2016, NYSOH issued a cancellation notice stating that your children's enrollment in their Child Health Plus plan was terminated, effective

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April 1, 2016, because a premium payment had not been received by the health plan.

On September 29, 2016, NYSOH received your children's updated application for health insurance.

On September 30, 2016, NYSOH issued a notice of eligibility determination, based on your September 29, 2016 application, stating that your children were eligible to enroll in Child Health Plus, effective November 1, 2016.

Also on September 30, 2016, NYSOH issued a notice of enrollment, based on your plan selection on September 30, 2016, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on November 1, 2016.

On February 17, 2017, you spoke to NYSOH's Account Review Unit and formally appealed the start date of your children's Child Health Plus plan insofar as they did not have coverage for the months of June 2016 and September 2016.

On September 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to September 22, 2017 to allow you time to submit supporting documentation.

On September 21, 2017, you submitted documentation and it was entered into the record as Appellant's Exhibit #1. The record was closed at the end of business on September 22, 2017.

Findings of Fact

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

- 1) You testified that you are appealing your children's disenrollment from their Child Health Plus plan for the months of June 2016 and September 2016.
- 2) Your children were enrolled into a Child Health Plus plan, effective April 1, 2016.
- 3) You testified that you had paid double premiums to your children's Child Health Plus plan, and that you received a March 2016 statement from the carrier showing a credit.
- 4) You testified that you continued making premium payments in June and July 2016, which the health plan accepted. You contacted NYSOH

when the health plan would not accept a premium payment for November 2016.

- 5) Your children were disenrolled from their Child Health plus plan, effective April 1, 2017.
- 6) You testified that you became aware that your children had been disenrolled from their Child Health Plus plan when the health plan would not accept a premium payment for November 2016.
- 7) You testified that when you became aware that your children had been disenrolled, you contacted NYSOH to reenroll them.
- 8) On September 29, 2016, NYSOH received your updated application and Child Health Plus plan selection.
- 9) The notes from your call on September 29, 2016 state that you needed backdating to April 1, 2016. The record also reflects that you did not have time to speak to NYSOH's Account Review Unit at that time.
- 10) The record contains complaint [REDACTED], created on December 9, 2016, which states [REDACTED] wanted back coverage for September 2016 but there is no drop down now for September 2016. Need to have September 2016 put on account for pending retro."

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

Applicable Law and Regulations

Valid Appeal Requests

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)).

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)).

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However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

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 NYSOH 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

A child who meets the eligibility requirements for Child Health Plus may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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 Child Health Plus 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

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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 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 your appeal of NYSOH's April 17, 2016 cancellation notice and the September 30, 2016 enrollment confirmation notice was timely.

The record reflects that you filed an appeal with NYSOH regarding your children's disenrollment and enrollment start date on February 17, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of the notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your children's disenrollment from their Child Health Plus plan as stated in the April 17, 2016 cancellation notice, an appeal should have been filed by June 16, 2016. For an appeal to have been valid on the issue of your children's enrollment start date as stated in the September 30, 2016 enrollment confirmation notice, an appeal should have been filed by November 29, 2016.

Although your appeal was untimely on its face, the record reflects that you were unaware of your children's disenrollment until you attempted to pay for their November 2016 premium and that you called NYSOH on September 29, 2016 regarding your children's disenrollment and enrollment start date. You credibly testified that you spoke with a representative at that time and that you were bounced around until you filed an appeal. You also testified that you contacted NYSOH as soon as you became aware of your children's disenrollment.

As you originally contacted NYSOH within sixty (60) days of your knowledge of their disenrollment and the September 30, 2016 enrollment confirmation notice, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly terminated your children's Child Health Plus plan for non-payment of premium effective, April 1, 2016.

On March 10, 2016, your children were enrolled in a Child Health Plus plan, effective April 1, 2016.

You testified that you had paid double premiums to your children's Child Health Plus plan, and that you received a March 2016 statement from the carrier showing a credit. You testified that you continued making premium payments in June and July 2016, which the health plan accepted. You contacted NYSOH when the health plan would not accept a premium payment for November 2016.

On April 17, 2016, NYSOH issued a notice stating that your children were disenrolled from their Child Health Plus plan for non-payment of premiums, effective April 1, 2016.

NYSOH 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 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 or not your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the April 17, 2016 cancellation notice is DISMISSED as a non-appealable issue.

The third issue is whether NYSOH properly determined that your children's reenrollment in their Child Health Plus plan was effective November 1, 2016.

You contacted NYSOH on September 29, 2016 to reenroll your children into their Child Health Plus plan.

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.

As you contacted NYSOH to reenroll your children into a Child Health Plus plan on September 29, 2016, their reenrollment should have taken effect the first day

of the second following month after September 29, 2016; that is, on November 1, 2016.

Therefore, the September 30, 2016 enrollment confirmation notice stating that your children's reenrollment in their Child Health Plus plan was effective November 1, 2016 is AFFIRMED.

Decision

Your appeal of the insurer's termination of your children's enrollment in their Child Health Plus plan for non-payment of premiums, effective April 1, 2016, is DISMISSED as a non-appealable issue.

The September 30, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: October 4, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

Your children's reenrollment in their Child Health Plus plan was effective November 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.

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 insurer's termination of your children's enrollment in their Child Health Plus plan for non-payment of premiums, effective April 1, 2016, is DISMISSED as a non-appealable issue.

The September 30, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

Your children's reenrollment in their Child Health Plus plan was effective November 1, 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).

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 مجانًا.

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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।

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.

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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.