



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

Notice of Decision

Decision Date: June 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016115

[REDACTED]

Dear [REDACTED],

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 11, 2017 plan disenrollment notice and the February 17, 2017 plan enrollment 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016115

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Issues

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

Did NY State of Health (NYSOH) properly terminate your children's Child Health Plus plan for non-payment of premium, effective January 31, 2017?

Did NYSOH properly determine that your children's re-enrollment in their Child Health Plus plan was effective April 1, 2017?

Procedural History

On May 15, 2016, NYSOH issued an eligibility determination notice, based on your May 14, 2016 application, stating that your children were eligible for Child Health Plus with a \$30.00 monthly premium each, effective June 1, 2016.

Also on May 15, 2016, NYSOH issued a plan enrollment notice confirming your children's enrollment in a Child Health Plus plan with a total monthly premium of \$60.00 and an enrollment start date of June 1, 2016. The notice stated that you must pay the monthly premium to start and keep your coverage.

On February 11, 2017, NYSOH issued a plan disenrollment notice stating that your children's coverage in their Child Health Plus plan ended on January 31, 2017, because a premium payment had not been received by the health plan by the payment deadline.

On February 16, 2017, NYSOH received your children's updated application for health insurance and you selected your children's Child Health Plus plan at that time.

On February 17, 2017, NYSOH issued a plan enrollment notice, based on your February 16, 2017 plan selection, stating that your children were enrolled in a Child Health Plus plan with a total monthly premium of \$60.00 and an enrollment start date of April 1, 2017.

On February 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as they did not have coverage for the months of February 2017 and March 2017.

On May 31, 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) According to your NYSOH account and your testimony, you have two children - - [REDACTED]
- 2) According to your NYSOH account and your testimony, your children were enrolled in a Child Health Plus plan with a \$60.00 monthly premium and an enrollment start date of June 1, 2016.
- 3) You testified that you forgot to pay the January 2017 premium to your children's Child Health Plus plan.
- 4) You further testified that you called the plan on February 6, 2017 to make payment of the January 2017 premium and the plan said it was too late for them to accept payment.
- 5) You testified that you contacted NYSOH on February 15, 2017 and the NYSOH representative told you to call back the next day, February 16, 2017, which would have been the start of the annual renewal period for your children.
- 6) According to your NYSOH account and your testimony, on February 16, 2017, you contacted NYSOH and updated your account. At that time, you selected a Child Health Plus plan for your children with an enrollment start date of April 1, 2017.

- 7) You testified that you are appealing your children's disenrollment from their Child Health Plus plan for the months of February 2017 and March 2017.
- 8) You testified that your children did not have any medical treatment or bills for the months of February 2017 and March 2017.

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 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

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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 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 terminated your children’s Child Health Plus plan for non-payment of premium effective, January 31, 2017.

The record indicates that you children were enrolled into a Child Health Plus plan effective June 1, 2016. On February 11, 2017, NYSOH issued a plan disenrollment notice stating that your children’s coverage ended January 31, 2017, because a premium payment had not been received on time by their health plan.

You testified that you forgot to pay the January 6, 2017 premium and you called the plan on February 6, 2017 to make that payment. You testified that the plan refused to accept your late payment.

On February 11, 2017, NYSOH issued a plan disenrollment notice stating that your children’s coverage in their Child Health Plus plan ended January 31, 2017, because you did not pay your insurance bill by the payment deadline.

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.

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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 February 11, 2017 plan disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your children's re-enrollment in their Child Health Plus plan was effective April 1, 2017.

You credibly testified that you contacted NYSOH on February 15, 2017 to re-enroll you children into their Child Health Plus plan. You also credibly testified that the NYSOH representative told you to call back the next day, February 16, 2017, which would be the beginning of the period for the children's annual renewal of their health insurance.

According to your NYSOH account and your testimony, on February 16, 2017 you contacted NYSOH and updated your account and re-enrolled your children into their Child Health Plus plan, effective April 1, 2017.

Generally, 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.

However, the NYSOH representative you spoke with on February 15, 2017, mistakenly thought you were calling to renew your children's eligibility and enrollment for the upcoming policy period, with enrollment to open on February 16, 2017. As such, you were told to call back the next day. Given these circumstances, it is reasonable to conclude that, had you been allowed to re-enroll your children into a Child Health Plus plan on February 15, 2017, their re-enrollment would have taken effect the first day of the following month; that is, on March 1, 2017.

Therefore, the February 17, 2017 plan enrollment notice stating that your children's re-enrollment in their Child Health Plus plan was effective April 1, 2017 is MODIFIED to state that their Child Health Plus plan is effective March 1, 2017, with a \$60.00 monthly premium and a March 1, 2016 enrollment start date.

Your case is RETURNED to NYSOH to re-instate your children in their Child Health Plus plan for the month of March 2017.

You will be responsible for the \$60.00 premium payment due to the Child Health Plus plan for the month of March 2017.

Decision

Your appeal of the Child Health Plus plan's termination of your children's enrollment for non-payment of premiums, effective January 31, 2017, is **DISMISSED** as a non-appealable issue.

The February 17, 2017 plan enrollment notice stating that your children's re-enrollment in their Child Health Plus plan was effective April 1, 2017 is **MODIFIED** to state that their enrollment in their Child Health Plus plan is effective March 1, 2017, with a \$60.00 monthly premium.

Your case is **RETURNED** to NYSOH to re-instate your children in their Child Health Plus plan for the month of March 2017.

You will be responsible for the \$60.00 premium due for March 2017.

This decision does not affect any subsequent eligibility redeterminations or enrollment notices issued by NYSOH.

Effective Date of this Decision: June 29, 2017

How this Decision Affects Your Eligibility

Your children should have been re-instated into their Child Health Plus plan as of March 1, 2017. They did not have health insurance coverage through NYSOH during the month of February 2017.

NYSOH will facilitate the re-instatement of your children's Child Health Plus plan for the month of March 2017.

You will be responsible for paying directly to your children's Child Health Plus plan the \$60.00 total monthly premium for March 2017.

This decision does not change your children's current eligibility for or enrollment in Child Health Plus.

If You Disagree with this Decision (Appeal Rights)

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 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 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

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- By fax: 1-855-900-5557

Summary

Your appeal of the Child Health Plus plan's termination of your children's enrollment for non-payment of premiums, effective January 31, 2017, is **DISMISSED** as a non-appealable issue.

The February 17, 2017 plan enrollment notice stating that your children's re-enrollment in their Child Health Plus plan was effective April 1, 2017 is **MODIFIED** to state that their enrollment in their Child Health Plus plan is effective March 1, 2017, with a \$60.00 total monthly premium.

Your case is **RETURNED** to NYSOH to re-instate your children in their Child Health Plus plan for the month of March 2017, and to notify you accordingly.

This decision does not affect any subsequent eligibility redeterminations or enrollment notices issued by NYSOH.

Your children should have been re-instated into their Child Health Plus plan as of March 1, 2017. They did not have health insurance coverage through NYSOH during the month of February 2017.

NYSOH will facilitate the re-instatement of your children's Child Health Plus plan for the month of March 2017, and will notify you once this has been done.

You will be responsible for paying your children's Child Health Plus plan directly the \$60.00 total monthly premium for March 2017.

This decision does not change your children's current eligibility for or enrollment in Child Health Plus.

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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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&btumi 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.

שׂוֹדֵשׁ (Yiddish)

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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.

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