



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

Notice of Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020982

[REDACTED]

Dear [REDACTED]

On October 12, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's July 5, 2017 disenrollment notice and the July 8, 2017 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

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020982



Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review the termination of your children's Child Health Plus (CHP) coverage due to an alleged non-payment of premium, effective June 30, 2017?

Did NYSOH properly determine that your children's reenrollment in their CHP plan was effective August 1, 2017?

Procedural History

On February 14, 2017, NYSOH issued a notice of eligibility determination, based on your February 13, 2017 application, stating that your children were eligible for CHP, effective March 1, 2017.

On February 19, 2017, NYSOH issued a notice of enrollment, stating that your children were enrolled in a CHP plan, and that their enrollment in this plan would start March 1, 2017.

On July 5, 2017, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan was terminated, effective June 30, 2017, because a premium payment had not been received by the health plan by the payment deadline.

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On July 7, 2017, you reselected a CHP plan on behalf of your children.

On July 8, 2017, NYSOH issued a notice of enrollment, based on your plan selection on July 7, 2017, stating that your children were enrolled in a CHP plan and that coverage would start on August 1, 2017.

On July 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's' plan, insofar as they did not have coverage for the month of July 2017.

On October 12, 2017, your spouse, [REDACTED], appeared at 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 spouse testified that he is only appealing your youngest child's disenrollment from her CHP plan for the month of July 2017.
- 2) Your children were enrolled into a CHP plan, effective March 1, 2017.
- 3) Your spouse testified that the two of you are finalizing a divorce, and that you were both paying a portion of your children's CHP premium.
- 4) Your spouse testified that these circumstances caused a situation in which only a partial premium payment was made, and the full premium payment was not made until July 7, 2017.
- 5) Your children were disenrolled from their CHP plan, effective June 30, 2017.
- 6) Your spouse testified that you became aware that your children had been disenrolled from their CHP plan in early July, and immediately reenrolled them in their coverage.
- 7) On July 7, 2017, NYSOH received your CHP plan selection.
- 8) Your spouse testified that your youngest child ended up becoming very ill at the end of July 2017, and had to be hospitalized prior to the start of her coverage. He testified that, as a result, there is an outstanding hospital bill of between \$59,000.00 and \$60,000.00.

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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) 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 CHP 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 CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

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The State of New York has provided that a child's period of eligibility for CHP 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 the Appeals Unit of NY State of Health (NYSOH) has the authority to review the termination of your children's Child Health Plus (CHP) coverage due to an alleged non-payment of premium, effective June 30, 2017.

On February 13, 2017, your children were enrolled in a CHP plan, effective March 1, 2017.

Your spouse testified that the two of you were each paying a portion of the monthly CHP premium, and that these circumstances led to a situation in which only a partial premium payment was made, and a full payment was not made until July 7, 2017.

On July 5, 2017, NYSOH issued a notice stating that your children were disenrolled from their CHP plan for non-payment of premiums, effective June 30, 2017.

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) a failure to provide timely notice of an eligibility determination and (4) 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 your children were properly terminated from their CHP plan for non-payment of premiums. Therefore, your appeal of the July 5, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your children's reenrollment in their CHP plan was effective August 1, 2017.

You contacted NYSOH on July 7, 2017 to reenroll your children into their CHP plan.

The date on which a CHP 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 CHP plan on July 7, 2017, their reenrollment should have taken effect the first day of the month following July: that is, on August 1, 2017.

Though your failure to timely pay your children's CHP premiums was an oversight, there is, nevertheless, no mechanism in the law that allows for backdating of coverage in these circumstances.

Therefore, the July 8, 2017 enrollment confirmation notice stating that your children's reenrollment in their CHP plan was effective August 1, 2017 is **AFFIRMED**.

However, your case is also **RETURNED** to NYSOH's Plan Management Unit to ensure that your children's disenrollment from their CHP plan was done properly, pursuant to CHP policies regarding disenrollment for nonpayment.

Decision

Your appeal of the insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective June 30, 2017, is **DISMISSED** as a non-appealable issue.

The July 8, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH's Plan Management Unit to ensure that your children's disenrollment from their CHP plan was done properly, in accordance with CHP policy regarding disenrollment for nonpayment.

Effective Date of this Decision: October 20, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

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).

Your children's reenrollment in their CHP plan was effective August 1, 2017.

Your case is being sent back to NYSOH's Plan Management to ensure that your children's disenrollment from their CHP plan for nonpayment of premiums was done in accordance with CHP policy regarding termination of coverage for nonpayment.

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

Your appeal of the insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective June 30, 2017, is DISMISSED as a non-appealable issue.

The July 8, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

Your children's reenrollment in their CHP plan was effective August 1, 2017.

Your case is being sent back to NYSOH's Plan Management to ensure that your children's disenrollment from their CHP plan for nonpayment of premiums was done in accordance with CHP policy regarding termination of coverage for nonpayment.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]

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 bɛtumi ama wo obi a okyerɛ 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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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