



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

Notice of Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021119

[REDACTED]

[REDACTED]

On October 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 2017 disenrollment 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).

This page intentionally left blank.



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

Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021119



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) May 25, 2017 disenrollment notice timely?

Did NYSOH properly determine that your oldest child's enrollment in a qualified health plan ended effective June 1, 2017?

Procedural History

On May 10, 2017, you submitted an application for health insurance

On May 11, 2017, NYSOH issued a notice of eligibility determination stating that your oldest child was eligible to purchase a qualified health plan at full cost, effective June 1, 2017.

Also on May 11, 2017, NYSOH issued an enrollment confirmation notice, stating that your oldest child was enrolled in a qualified health plan, effective June 1, 2017.

On May 24, 2017, you submitted an updated application for health insurance.

On May 25, 2017, NYSOH issued a notice of eligibility determination stating that your oldest child was not qualified for a special enrollment period, but if he was, he was eligible to purchase a qualified health plan at full cost, effective June 1, 2017.

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).

Also on May 25, 2017, NYSOH issued a disenrollment notice stating that your oldest child's qualified health plan would end June 1, 2017, because you asked for coverage to end.

On June 19, 2017, an application for health insurance was submitted on your behalf.

On June 20, 2017, NYSOH issued an eligibility determination notice, stating that your oldest child was eligible for Child Health Plus, effective August 1, 2017.

Also on June 20, 2017, NYSOH issued an enrollment confirmation notice, stating that your oldest child was enrolled in a Child Health Plus plan, effective August 1, 2017.

On August 3, 2017, you spoke to NYSOH's Account Review Unit and appealed your oldest child's enrollment, insofar as he did not have coverage in June 2017 or July 2017.

On October 17, 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 to allow the Hearing Officer to review telephone recordings. Two recordings were reviewed and the record was closed.

Findings of Fact

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

- 1) You testified that you are appealing only your oldest child's enrollment.
- 2) You submitted an application to NYSOH for financial assistance on May 10, 2017.
- 3) You testified, and the record reflects, that you enrolled your oldest child into a child only qualified health plan, effective June 1, 2017.
- 4) You testified, and the record reflects, that you called NYSOH on May 24, 2017 to add your newborn child to your account.
- 5) As a result of the May 24, 2017 update, NYSOH issued a May 25, 2017 disenrollment notice stating that your oldest child's coverage would end on June 1, 2017, because you requested that his coverage end. You testified that you did not request to end his coverage.

- 6) A review of the May 24, 2017 phone recording confirms your testimony. During the call, a NYSOH representative assisted you with updating your application. You stated that there were no changes regarding who needs insurance in your household, aside from the addition of your newborn. At no point did you request to cancel your oldest child's coverage.
- 7) You also spoke with NYSOH on May 26, 2017. During that call, you explained that you received the disenrollment notice, and asked NYSOH to put your oldest child back into coverage because you did not want it cancelled.
- 8) You testified that you need your oldest child's coverage reinstated because you have outstanding bills for medical services rendered in July 2017.

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)).

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)).

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)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.
- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's May 25, 2017 disenrollment notice was timely.

The record reflects that you first contacted NYSOH regarding your oldest child's qualified health plan enrollment on May 26, 2017. No appeal was filed.

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 oldest child's disenrollment from his qualified health plan as stated in the May 25, 2017 disenrollment notice, an appeal should have been filed by July 24, 2017.

Although your appeal was untimely on its face, the record reflects that you called NYSOH on May 26, 2017, the day after NYSOH's May 25, 2017 disenrollment notice. The record confirms that you spoke with a NYSOH representative but the issue could not be resolved.

As you originally contacted NYSOH within sixty (60) days of the May 25, 2017 disenrollment notice regarding your oldest child's disenrollment, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue is whether NYSOH properly determined that your oldest child's enrollment in a qualified health plan ended effective June 1, 2017.

On May 11, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible to purchase a qualified health plan at full cost, effective June 1, 2017. You subsequently enrolled him into a qualified health plan.

On May 25, 2017, NYSOH issue a disenrollment notice indicating that your oldest child would be disenrolled from his qualified health plan effective June 1, 2017. The notice further stated that he would be disenrolled because you asked for his coverage to end.

You testified that you did not request to end his coverage. A review of the phone recordings confirms your testimony. During a May 24, 2017 call, a NYSOH representative assisted you with updating your application to include your newborn child. You stated that there were no changes regarding who needs insurance in your household, aside from the addition of your newborn child. At no point did you request to cancel your oldest child's coverage.

You also spoke with NYSOH on May 26, 2017. During that call, you explained that you received the May 25, 2017 disenrollment notice, and asked NYSOH to put your oldest child back into coverage because you did not want it cancelled.

Therefore, there is no basis to find that NYSOH properly terminated or cancelled your oldest child's enrollment in a qualified health plan.

Since your oldest child should not have been disenrolled from his qualified health plan, the May 25, 2017 disenrollment notice is **RESCINDED**. Your case is **RETURNED** to NYSOH to reinstate your oldest child's qualified health plan for June 2017 and July 2017.

Decision

The May 25, 2017 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your oldest child's qualified health plan for June 2017 and July 2017.

Effective Date of this Decision: November 29, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to reinstate your oldest child's qualified health plan coverage for June 2017 and July 2017.

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

The May 25, 2017 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your oldest child's qualified health plan for June and July 2017.

Your case is being sent back to NYSOH to reinstate your oldest child's qualified health plan coverage for June 2017 and July 2017.

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.

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:



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)

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).

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.

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 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).