

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

## Notice of Decision

Decision Date: March 28, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027522

[REDACTED]

Dear [REDACTED],

On March 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 20, 2018 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  
P.O. Box 11729  
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## Decision

Decision Date: March 28, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027522

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your youngest child's enrollment in his Child Health Plus plan was effective February 1, 2018?

## Procedural History

Your NY State of Health (NYSOH) account indicates that your youngest child was found eligible for Medicaid, effective November 1, 2016. This eligibility was to remain in effect until the last day of the month following his [REDACTED] birthday.

On September 21, 2017, NYSOH issued a renewal notice, stating that it was time to renew your youngest child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your youngest child would qualify for financial help paying for his health coverage, and that you needed to update your account by November 15, 2017, or your youngest child might lose the financial assistance he was receiving.

No updates were made to your account by November 15, 2017.

On November 18, 2017, NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your youngest child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had

not completed your renewal within the required time frame. Your youngest child's eligibility ended effective December 1, 2017.

Also on November 18, 2017, NYSOH issued a plan disenrollment notice confirming your youngest child's disenrollment from their Medicaid Managed Care plan, effective November 30, 2017.

On December 12, 2017, NYSOH received your updated application for health insurance. You also uploaded six documents to your NYSOH account on December 12, 2017.

On December 13, 2017, NYSOH issued a notice stating that the income information listed in your application did not match what NYSOH received from state and federal data sources and that more information was needed to confirm the information in your application. This notice further directed you to submit proof of your household income by December 27, 2017, to confirm your youngest child's eligibility.

Also on December 13, 2017, a NYSOH representative invalidated the income documentation you submitted on December 12, 2017.

On December 14, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm what was listed in your application. This notice further directed you to submit proof of your household income by January 11, 2018.

On December 15, 2017, you uploaded one document to your NYSOH account.

On December 18, 2017, a NYSOH representative validated the income documentation, updated the income information in your application, and submitted an updated application on your behalf.

On December 19, 2017, NYSOH issued an eligibility determination notice stating, in part, that your youngest child was eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective February 1, 2018.

Also on December 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your youngest child's Child Health Plus plan eligibility on February 1, 2018, and not December 1, 2017.

On January 20, 2018, NYSOH issued a plan enrollment notice confirming, in part, that your youngest child was enrolled in a Child Health Plus plan with a \$9.00 monthly premium, effective February 1, 2018.

On March 14, 2018, you had a scheduled telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. That day you requested that the hearing be adjourned, which request was granted.

On March 22, 2018, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the telephone hearing. 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, your youngest child was born on [REDACTED].
- 2) You testified, and your NYSOH account confirms, that you receive all notices from NYSOH via electronic mail.
- 3) You testified that you did receive the electronic alert regarding the notice in your NYSOH account telling you that you needed to update your application in order to renew your youngest child's eligibility.
- 4) You testified that you were aware you had to update your NYSOH account to renew your youngest child's eligibility, but that you were very busy at the time you received the notice and forgot to update your account by the deadline.
- 5) According to your NYSOH account, you did not update it by November 15, 2017, and as such, your youngest child was disenrolled from his Medicaid Managed Care plan as of November 30, 2017.
- 6) According to your NYSOH account and your testimony, you updated your NYSOH account on December 12, 2017.
- 7) According to your NYSOH account and your testimony, on December 12, 2017, you uploaded six documents to your NYSOH account. These documents included:
  - a. Two self-attesting letters stating that your children do not have any income, and
  - b. A weekly paystub, dated November 16, 2017, for a gross income amount of \$640.40, and
  - c. A weekly paystub, dated November 22, 2017, for a gross income amount of \$682.66, and

- d. A weekly paystub, dated November 30, 2017, for a gross income amount of \$662.77, and
  - e. A weekly paystub, dated December 7, 2017, for a gross income amount of \$629.36.
- 8) On December 13, 2017, NYSOH invalidated the income documentation you provided because the paystubs were not within 30 days from the date of your December 12, 2017 application.
  - 9) According to you NYSOH account and your testimony, on December 15, 2017, you uploaded one additional weekly paystub, dated December 14, 2017, for a gross income amount of \$674.70.
  - 10) According to you NYSOH account, on December 18, 2017, NYSOH validated the income documentation you provided, updated your annual expected household income from \$26,474.24 to \$34,443.37, and submitted an application on your behalf.
  - 11) According to you NYSOH account, on December 19, 2017, your youngest child was found eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective February 1, 2018.
  - 12) According to you NYSOH account, on December 19, 2017, you enrolled your youngest child into a Child Health Plus plan with a \$9.00 monthly premium, and this enrollment began as of February 1, 2018.
  - 13) You testified that you contacted NYSOH prior to bringing your child to his doctor appointment in mid-December 2017, and the NYSOH representative informed you could still bring your child to the doctor's appointment because his coverage would be backdated once the income documentation was validated.
  - 14) You testified that you relied upon this information when bringing your youngest child to the doctor.
  - 15) You testified that you would like your youngest child's Child Health Plus plan with a \$9.00 monthly premium to begin as of December 1, 2017, because you have unpaid medical bills for him from that month.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

### Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant’s household income. If NYSOH is unable to verify the applicant’s household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

## Child Health Plus

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 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 [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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your youngest child’s enrollment in his Child Health Plus plan was effective February 1, 2018.

Your youngest child was originally found eligible for Medicaid, effective November 1, 2016. This eligibility remained in effect until the last day of the month following his [REDACTED] birthday on [REDACTED], which was [REDACTED].

Generally, NYSOH must redetermine a qualified individual’s eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency. NYSOH’s September 21, 2017 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue his financial assistance for health insurance, and that you needed to supply additional

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information by November 15, 2017, or your youngest child's financial assistance might end.

Because there was no timely response to this notice, your youngest child was terminated from his Medicaid Managed Care plan effective November 30, 2017.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You further testified that you did receive the electronic alert regarding the notice that directed you to update the information in your NYSOH account. However, you testified that you were very busy at the time you received the notice and forgot to update your account by the deadline.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your youngest child's enrollment in his health plan and eligibility for financial assistance would continue.

You first renewed your youngest child's eligibility for financial assistance through NYSOH for the upcoming coverage year on December 12, 2017. The income amount that was entered into that application did not match what NYSOH received from state and federal data sources. As a result, NYSOH asked that you submit income documentation to confirm your youngest child's eligibility.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On December 12, 2017, you uploaded four weekly paystubs to your NYSOH account; which included weekly paystubs with the following income information:

- 1) Dated November 16, 2017 for a gross income amount of \$640.40;
- 2) Dated November 22, 2017 for a gross income amount of \$682.66;
- 3) Dated November 30, 2017 for a gross income amount of \$662.77; and,
- 4) Dated December 7, 2017 for a gross income amount of \$629.36.

On December 13, 2017, NYSOH invalidated the income documentation you provided because the paystubs you submitted were not from within 30 days of your December 12, 2017 application. On December 14, 2017, NYSOH issued a notice requesting that you submit additional documentation.

However, after reviewing the income documentation you provided on December 12, 2017, it is concluded that the four weekly paystubs were within 30 days from December 12, 2017. Therefore, your application should have been considered complete as of December 12, 2017, and your child should have been found eligible to enroll in a Child Health Plus plan that day.

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.

If NYSOH had properly validated the income documentation you provided on December 12, 2017, you would have been able to enroll your youngest child into a Child Health Plus plan on December 13, 2017. Had you selected a plan for your youngest child's enrollment on December 13, 2017, your youngest child's enrollment would have begun on the first month following December 2017; that is, as of January 1, 2018.

However, you testified that you were seeking a December 1, 2017, start date for your youngest child in his Child Health Plus plan because he has unpaid medical bills from December 2017. There is no mechanism in the law to allow for this backdate request and your failure to update your account so as to avoid a gap in your youngest child's coverage cannot be attributed to error or inaction on NYSOH's part. Even so, there is no indication in the record that your child has any unpaid medical bills from the month of January 2018, and no testimony was offered in this regard. As a result, if you so choose, you may elect to have your youngest child's Child Health Plus plan backdated to January 1, 2018.

Therefore, NYSOH is directed to contact you to determine if you would like your youngest child's Child Health Plus plan to begin as of January 1, 2018, and not February 1, 2018.

If you elect to backdate your youngest child's Child Health Plus plan, the January 20, 2018 plan enrollment notice is MODIFIED to state that your youngest child's enrollment is January 1, 2018, and not February 1, 2018.

Otherwise, the January 20, 2018 plan enrollment notice is AFFIRMED and you child remains enrolled in his Child Health Plus plan as of February 1, 2018.

## **Decision**

NYSOH is directed to contact you to determine whether you would like your youngest child's Child Health Plus plan backdated to January 1, 2018.

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 elect to backdate your youngest child's Child Health Plus plan, the January 20, 2018 plan enrollment notice is MODIFIED to state that your youngest child's enrollment is January 1, 2018, and not February 1, 2018.

Otherwise, the January 20, 2018 plan enrollment notice is AFFIRMED and your child remains enrolled in his Child Health Plus plan as of February 1, 2018.

This decision has no effect on any subsequent eligibility determination notices issued by NYSOH.

**Effective Date of this Decision: March 28, 2018**

### **How this Decision Affects Your Eligibility**

This decision does not change your youngest child's current eligibility.

Your child's Child Health Plus plan coverage should have begun no earlier than January 1, 2018. If you so choose, you may elect to enroll your youngest child into his Child Health Plus plan as of January 1, 2018. NYSOH will contact you to see if you want to so choose.

You will be responsible for the premiums for all months your youngest child is enrolled into his Child Health Plus plan coverage.

### **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

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).

- 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**

NYSOH is directed to contact you to determine whether you would like your youngest child's Child Health Plus plan backdated to January 1, 2018.

If you elect to backdate your youngest child's Child Health Plus plan, the January 20, 2018 plan enrollment notice is MODIFIED to state that your youngest child's enrollment is January 1, 2018, and not February 1, 2018.

Otherwise, the January 20, 2018 plan enrollment notice is AFFIRMED and your child remains enrolled in his Child Health Plus plan as of February 1, 2018.

This decision has no effect on any subsequent eligibility determination notices issued by NYSOH.

enrolled into his Child Health Plus plan coverage.

This decision does not change your youngest child's current eligibility.

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Your child's Child Health Plus plan coverage should have begun no earlier than January 1, 2018. If you so choose, you may elect to enroll your youngest child into his Child Health Plus plan as of January 1, 2018. NYSOH will contact you to see if you want to so choose.

You will be responsible for the premiums for all months your youngest child is enrolled into his Child Health Plus plan coverage.

### **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)

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 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 okyer& 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 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).