



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

## Notice of Decision

Decision Date: May 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013648



Dear [REDACTED],

On March 17, 2017, you, your spouse, and your attorneys appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2016 disenrollment notice and the October 18, 2016 eligibility determination 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: May 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000013648



## Issue

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

Did NY State of Health (NYSOH) properly find that your children's eligibility for and enrollment in Child Health Plus terminated as of October 31, 2016?

## Procedural History

On September 25, 2015, NYSOH issued a notice of eligibility determination stating your five youngest children were eligible to enroll in Child Health Plus, effective November 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On September 3, 2016, NYSOH issued a notice stating it was time to renew your child's health insurance for the upcoming coverage year. That notice indicated NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for health coverage. The notice directed you to update the information in your account by October 15, 2016 or the financial assistance your children were receiving might end.

No updates were made to your account by October 15, 2016.

On October 17, 2016, NYSOH issued a disenrollment notice stating your children's coverage through their Child Health Plus plan would end October 31, 2016, because you did not renew their health insurance coverage.

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).

On October 18, 2016, NYSOH issued an eligibility determination notice, based on an October 16, 2016 systematic eligibility redetermination, stating your children were no longer eligible for health insurance through NYSOH, effective December 1, 2016, because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

On October 24, 2016, NYSOH received your children's updated application for health insurance.

On October 25, 2016, NYSOH issued a notice of eligibility determination, based on your October 24, 2016 updated application, stating your children were eligible to enroll in Child Health Plus, effective December 1, 2016.

Also on October 25, 2016, NYSOH issued a notice of enrollment, based on your plan selection on October 24, 2016, stating your children were enrolled in a Child Health Plus plan with Independent Health with a coverage start date of December 1, 2016.

On November 30, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child [REDACTED] Child Health Plus plan insofar as he did not have coverage for the month of November 2016.

On March 17, 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) You testified that you are only appealing your child [REDACTED] disenrollment from his Child Health Plus plan for the month of November 2016.
- 2) You testified that you previously received all your notices from NYSOH by regular mail.
- 3) You testified you first learned your children's health coverage had been terminated when you received a letter from his health plan dated October 17, 2016.
- 4) The September 3, 2016 renewal notice does not indicate your children's Child Health Plus plan coverage would be terminated if you failed to respond. The notice does state that your children's financial eligibility might end.

- 5) Your children's health coverage was terminated, effective October 31, 2016.
- 6) You testified you contacted NYSOH on October 24, 2016 to update your account.
- 7) Your children were reenrolled onto his Child Health Plus plan with Independent Health, effective December 1, 2016.
- 8) Your children had a gap in health coverage for the month of November 2016.
- 9) Your child [REDACTED] has outstanding medical bills from the month of November 2016.
- 10) You testified, and your account confirms, you switched your child's health plan to Fidelis on November 22, 2016. Coverage through that plan became effective January 1, 2017.
- 11) Your attorneys contended you are seeking reinstatement of your child [REDACTED] into his Child Health Plus plan with Independent Health for the month of November 2016, because he was improperly disenrolled from the plan without proper notice.

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

## **Applicable Law and Regulations**

### 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)).

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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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR § 457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 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” (NY Public Health Law § 2511(2)(f)(ii)). 42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 issue under review is whether NYSOH provided you with proper and adequate notice that your children’s eligibility for and enrollment in Child Health Plus terminated as of October 31, 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).

Although you are appealing only the coverage for your child [REDACTED], his eligibility and enrollment cannot be considered separately from his siblings, because they are all on the same plan.

Your children were found eligible for Child Health Plus, effective November 1, 2015, and subsequently enrolled in a plan.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every twelve 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 3, 2016 renewal notice indicated NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for his coverage. The notice directed you to update the information in your account by October 15, 2016 or the financial assistance your child was receiving might end.

No updates were made to your NYSOH account prior to October 15, 2016.

On October 17, 2016, NYSOH issued a disenrollment notice stating your child's coverage in his Child Health Plus plan would end effective October 31, 2016. According to the eligibility determination issued on October 18, 2016, your child's coverage was terminated because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

Pursuant to the above cited regulation, when NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent can take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. The September 3, 2016 renewal notice does not indicate your child's Child Health Plus plan enrollment would be terminated if you failed to respond. Rather, NYSOH first notified you that your child's health coverage would end in the disenrollment notice issued October 17, 2016 and the subsequent October 18, 2016 eligibility determination notice.

Whether you received the September 3, 2016 renewal notice is irrelevant, because the issue is whether the actual termination notice was appropriate.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the second following month. Since the first notice issued by NYSOH advising you that your children's health coverage was being terminated was dated October 17, 2016, it would have obviously been received after the fifteenth day of the month. As such, any changes you would have made to your account to prevent a gap in coverage would not have been effective until December 1, 2016.

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Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to prevent a gap in Child Health Plus coverage for your children for the month of November 2016 and, therefore, the October 17, 2016 disenrollment notice and the October 18, 2106 eligibility determination notices must be RESCINDED.

## **Decision**

The October 18, 2016 eligibility determination notice is RESCINDED.

The October 17, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate reenrolling your children into their Child Health Plus plan with Independent Health for the month of November 2016, if you still choose to do so, and to notify you accordingly.

**Effective Date of this Decision:** May 3, 2017

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

Your children should not have been terminated from their Child Health Plus plan in November 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling your children into their Child Health Plus plan for November 2016, if you choose to do so.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

## **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.

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).



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
- By fax: 1-855-900-5557

### **Summary**

The October 18, 2016 eligibility determination notice is RESCINDED.

The October 17, 2016 disenrollment notice is RESCINDED.

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 case is RETURNED to NYSOH to facilitate reenrolling your children into their Child Health Plus plan with Independent Health for the month of November 2016, if you still choose to do so, and to notify you accordingly.

Your children should not have been terminated from their Child Health Plus plan in November 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to assist you in reenrolling your children into their Child Health Plus plan for November 2016, if you choose to do so.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

### **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 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.

## **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.

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