



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

## Notice of Decision

Decision Date: April 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014182

[REDACTED]

Dear [REDACTED]

On March 16, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2016 plan disenrollment notice and the December 16, 2016 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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## Decision

Decision Date: April 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014182



## Issue

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

Did NY State of Health (NYSOH) properly terminate your children's Child Health Plus (CHP) plan for non-payment of premium effective, August 31, 2016 and re-enrolled thereafter, effective January 1, 2017?

## Procedural History

On July 5, 2016, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP effective August 1, 2016.

Also on July 5, 2016, NYSOH issued an enrollment notice stating that your children were enrolled in a CHP plan, with a start date of August 1, 2016.

On November 23, 2016, NYSOH issued a plan disenrollment notice stating that your children's enrollment in their CHP plan was terminated, effective August 31, 2016, because you did not pay your insurance bill by the payment deadline.

On December 15, 2016, NYSOH received your children's updated application for health insurance.

On December 16, 2016, NYSOH issued an eligibility determination notice, based on your December 15, 2016 application, stating that your children were eligible to enroll in CHP, effective January 1, 2017.

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Also on December 16, 2016, NYSOH issued a plan enrollment notice, based on your CHP plan selection for your children on December 15, 2016, stating that they were enrolled in a CHP plan and that coverage would start on January 1, 2017.

On December 20, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan insofar as they did not have coverage for the months of September 2016, October 2016, November 2016 and December 2016.

On March 16, 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 children's disenrollment from their CHP plan for the months of September 2016, October 2016, November 2016 and December 2016.
- 2) Your children were enrolled into a CHP plan, effective August 1, 2016.
- 3) You testified that you thought payments for your children's CHP plan premiums were being automatically withdrawn from your bank account.
- 4) You testified that a premium payment had been automatically withdrawn out of your bank account on September 1, 2016, so you thought this set-up was working.
- 5) You testified that your children had medical treatment and testing in September 2016 and October 2016.
- 6) You testified that you were not aware there was a problem with their coverage until you received a call from the doctor's business office in November 2016 and they informed you there was a problem obtaining reimbursement for services.
- 7) You testified that this prompted you to call your children's CHP plan immediately. You further testified that the CHP plan representative told you there had been "no lapse in coverage" and you needed to call NYSOH.

- 8) According to your NYSOH account, the CHP plan did not send a request to terminate your children's plan for non-payment of premium until November 17, 2016.
- 9) You testified that you received the November 23, 2016 plan disenrollment notice stating your children's CHP coverage was cancelled effective August 31, 2016.
- 10) You testified that after receiving the November 23, 2016 plan disenrollment notice, you contacted NYSOH to reenroll your children.
- 11) On December 15, 2016, NYSOH received your updated application and CHP plan selection.
- 12) You testified that you need to have your children's CHP plan reinstated from September 1, 2016 to December 31, 2016 because your children had medical treatment and testing during this time frame that is unpaid.

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)).

### Notice – Terminating Enrollment

NYSOH may initiate termination of an enrollee's enrollment in a health plan through NYSOH and must permit a health plan issuer to terminate such coverage or enrollment when the enrollee is no longer eligible for coverage in a health plan through NYSOH with appropriate notice to the enrollee (45 CFR § 155.430(b)(2)(i), (d)).

For NYSOH initiated terminations where the enrollee is no longer eligible for coverage in a health plan through NYSOH, the last day of enrollment is the last day of eligibility, as described in 45 CFR § 155.330(f) (45 CFR § 155.430(d)(3)).

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Notice of the effective dates for termination of coverage or enrollment must be reasonable, which is defined as at least fourteen days before the requested date of termination (45 CFR § 155.430(d)(1)(i)-(ii)).

Effective dates of termination of coverage or enrollment must be implemented by NYSOH as follows:

- 1) When resulting from a redetermination, the termination date is the first day of the month following the date of the written notice, which must be at least fourteen days before the requested date of termination to be considered timely; or
- 2) When resulting from an appeal decision, on the date specified in the appeal decision; or
- 3) When affecting enrollment or premiums only, on the first day of the month following the date on which NYSOH is notified on the change.

(45 CFR § 155.330(f)(1)(i)-(iii)).

## **Legal Analysis**

The issue under review is whether NYSOH properly notified you of the termination of your children's CHP plan for non-payment of premium effective, August 31, 2016. Thereafter, your children's re-enrollment in the same CHP plan starting January 1, 2017.

NYSOH must provide enrollees with 14 days' written notice that their coverage with a health plan, including CHP, will be terminated. If NYSOH cannot provide 14 days' written notice, the effective date of termination is the last day of the month after 14 days' written notice has been provided.

The record reflects that NYSOH sent you a plan disenrollment notice on November 23, 2016, which stated your children's CHP plan had ended on August 31, 2016 because you did not pay the monthly insurance premium by the payment deadline. Ordinarily, cancellation of health plan coverage due to nonpayment of premium is not an appealable issue over which the Appeals Unit has jurisdiction. However, the circumstances in your case suggest you did not receive timely or adequate notice from either the CHP plan or NYSOH that your children's coverage was being terminated as of August 31, 2016.

The record reflects that your children's CHP plan first sent notice to NYSOH that they were requesting your children's coverage be terminated for non-payment of premium on November 17, 2016, and NYSOH issued the plan disenrollment notice on November 23, 2016. Fourteen days written notice of termination of

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coverage is required, which means notice should have been sent no later than August 17, 2016 for an August 31, 2016 termination date. Since NYSOH's November 23, 2016 plan disenrollment notice was not timely issued, you did not receive proper notice of termination of your children's coverage.

Further, the record is devoid of any explanation as to the CHP plan's delay in terminating your children's CHP coverage and it is unclear why NYSOH was not notified by the health plan in a timely manner that your children's CHP coverage was being cancelled as of August 31, 2016. In fact, you credibly testified that the CHP plan told you that there had been "no lapse in coverage" when you contacted them in November 2016.

Therefore, based on the record, you were not provided with reasonable notice by the health plan or NYSOH of the termination of your children's CHP plan such that their coverage was improperly terminated effective August 31, 2016. In accordance with the rules of notice of termination, the earliest your children could be terminated would be the first of the month following the date on which NYSOH is notified of the change. Combined with the 14-day reasonable notice rule that date is January 1, 2017.

To correct this error, NYSOH's November 23, 2016 plan disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate re-instatement of your children's CHP plan as of September 1, 2016 through December 31, 2016. Thereafter, your children's enrollment in their CHP plan, as stated in the December 16, 2016 enrollment notice, remains in effect as of January 1, 2017.

You will be responsible for paying the monthly premiums to your children's CHP plan for September 2016, October 2016, November 2016, and December 2016.

## **Decision**

NYSOH's November 23, 2016 plan disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate re-instatement of your children in their CHP plan as of September 1, 2016 through December 31, 2016.

The December 16, 2016 enrollment notice confirming your children's enrollment in their CHP plan as of January 1, 2017 remains in effect.

**Effective Date of this Decision:** April 28, 2017

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

This decision does not change your children's eligibility.

Your children's enrollment in their CHP plan was effective August 1, 2016.

NYSOH will facilitate re-instatement of your children's CHP plan from September 1, 2016 through December 31, 2016. NYSOH will notify you once this has been done.

You will be responsible for paying the monthly premiums due to your children's CHP plan for September 2016, October 2016, November 2016 and December 2016.

Thereafter, your children's enrollment in the same CHP plan became effective January 1, 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 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

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 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's November 23, 2016 plan disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate re-instatement of your children in their CHP plan as of September 1, 2016 through December 31, 2016, and to notify you accordingly.

The December 16, 2016 enrollment notice confirming your children's enrollment in their CHP plan as of January 1, 2017 remains in effect.

This decision does not change your children's eligibility.

Your children's enrollment in their CHP plan was effective August 1, 2016.

NYSOH will facilitate re-instatement of your children's CHP plan from September 1, 2016 through December 31, 2016. NYSOH will notify you once this has been done.

You will be responsible for paying the monthly premiums due to your children's CHP plan for September 2016, October 2016, November 2016 and December 2016.

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Thereafter, your children's enrollment in the same CHP plan became effective January 1, 2017.

### **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।

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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&etumi ama wo obi a okyerε 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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