



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

## Notice of Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014734

[REDACTED]

Dear [REDACTED]

On April 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 2016 disenrollment notice and the January 6, 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).

This page intentionally left blank.



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

## Decision

Decision Date: June 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014734

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly terminate your children's coverage through their Child Health Plus plan, effective December 31, 2016?

Did NYSOH properly determined your children's enrollment in their Child Health Plus plan became effective no earlier than February 1, 2017?

## Procedural History

On May 16, 2016, NYSOH received your family's updated application for financial assistance with health insurance.

On May 17, 2016, NYSOH issued a notice of eligibility determination stating your children were eligible for Child Health Plus effective July 1, 2016. Your children were subsequently enrolled in a Child Health Plus plan.

On November 22, 2016 NYSOH received your family's updated application for health insurance.

On November 23, 2016, NYSOH issued an eligibility determination notice stating your children were no longer eligible to enroll in health insurance through NYSOH, effective January 1, 2017, because you indicated they no longer wanted to receive 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 November 28, 2016, NYSOH issued a disenrollment notice stating your children's Child Health Plus plan coverage would end on December 31, 2016 because they were no longer eligible to enroll in the plan.

NYSOH received your family's updated application for health insurance on January 5, 2017.

On January 6, 2017, NYSOH issued an eligibility determination notice stating your children were eligible to enroll in Child Health Plus, effective February 1, 2017.

Also on January 6, 2017, NYSOH issued an enrollment notice, based on your January 5, 2017 plan selection, confirming your children were enrolled in a Child Health Plus plan with coverage effective February 1, 2017.

On January 9, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as they did not have coverage for the month of January 2017.

On April 13, 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 Child Health Plus plan for the month of January 2017.
- 2) Your children were enrolled in a Child Health Plus plan effective July 1, 2016.
- 3) You testified, and your account confirms, you and your spouse were enrolled in a Qualified Health Plan through NYSOH and you were due to renew your coverage for the upcoming coverage year by December 15, 2016.
- 4) You testified, and your account confirms, that your Certified Application Counselor (CAC) completed the renewal for you and your spouse online on November 22, 2016.
- 5) You testified that during the renewal, your CAC indicated on the application that your children were not applying for insurance because

she only wanted to renew the health coverage for you and your spouse and she knew your children were not due for renewal until June 2017.

- 6) Your account confirms the updated application submitted on November 22, 2016 indicated your children no longer needed health insurance.
- 7) You testified it was not your intention to disenroll your children from their health coverage.
- 8) You testified you did not receive the November 23, 2016 eligibility determination notice stating your children were no longer eligible for health insurance through NYSOH because they no longer wanted to receive coverage; however, you testified you did receive the November 28, 2016 disenrollment notice indicating your children's coverage through their Child Health Plus plan would end on December 31, 2016, because they were no longer eligible to remain in the plan.
- 9) You testified you disregarded the November 28, 2016 disenrollment notice, because your CAC advised you that the health plan was showing the children were enrolled, and so the notice must be a mistake. You testified neither you nor your CAC contacted NYSOH regarding the disenrollment notice.
- 10) You testified you first learned your children had been disenrolled from their Child Health Plus plan in January 2017 while seeking medical treatment for them.
- 11) You testified you immediately contacted your CAC, who then contacted NYSOH to reenroll your children into a Child Health Plus plan.
- 12) Your account confirms new enrollments were submitted for the children on January 5, 2017 with coverage effective February 1, 2017.
- 13) You testified, and your account confirms, your children did not have health insurance in the month of January 2017.
- 14) You testified your children have outstanding medical bills from that time.
- 15) You testified you are seeking your children's Child Health Plus coverage backdated to January 1, 2017 to avoid a gap in coverage, because they were mistakenly disenrolled from their plan.

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)).

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).

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 in order 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

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).

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 NYSOH properly terminated your children's coverage through their Child Health Plus plan, effective December 31, 2016.

Your children were enrolled in a Child Health Plus plan, effective July 1, 2016. Your account confirms an updated application was submitted on behalf of your family on November 22, 2016. That application indicated your children no longer needed health insurance. As a result, NYSOH issued an eligibility determination notice on November 23, 2016 stating your children were no longer eligible for health insurance through NYSOH because they no longer wanted to receive coverage. You testified you did not receive this notice.

Pursuant to the above regulations, 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 is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. Although you testified you did not receive the November 23, 2016 eligibility determination notice, you testified you did receive the November 28, 2016 disenrollment notice indicating your children's coverage through their Child Health Plus plan would end on December 31, 2016, because they were no longer eligible to remain in the plan. However, you testified you disregarded this notice because your CAC advised you that it was a mistake.

According to the regulations, 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 next following month. Since you are considered to have received NYSOH's November 28, 2016 disenrollment notice by December 2, 2016, prior to the 15<sup>th</sup> of the month, any changes you would have made to your account at that time in response to the notice would have been effective January 1, 2017 and, therefore, would have prevented a gap in coverage.

Therefore, it is concluded NYSOH provided you with sufficient notice that your children's coverage was ending which would have allowed you to act to prevent a gap in their Child Health Plus coverage for the month of January 2017.

It is noted that although you testified that you did not intend to terminate the health coverage your children were receiving, the fact remains that the application was changed by your authorized representative to decline both

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).

financial assistance and health insurance for your children, which it is your right to do.

Given the unambiguous application and the evidence that NYSOH provided you with proper notice that your children's coverage was ending - notice that you acknowledged you received and disregarded - it is concluded NYSOH acted properly in disenrolling your children from their Child Health Plus plan, effective December 31, 2016.

Therefore, the November 28, 2016 disenrollment notice stating your children's coverage through their Child Health Plus plan was terminated, effective December 31, 2016, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined your children's coverage through their Child Health Plus plan became effective no earlier than February 1, 2017.

Your account confirms that new Child Health Plus enrollments were submitted for your children on January 5, 2017.

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.

Since your children's Child Health Plus plan was selected on January 5, 2017, prior to the fifteenth day of the month, pursuant to the regulations, that plan properly became effective on the first day of the next following month; that is, February 1, 2017.

Therefore, the January 6, 2017 enrollment confirmation notice stating your children's enrollment in their Child Health Plus plan was effective February 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The November 28, 2016 disenrollment notice is AFFIRMED.

The January 6, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** June 7, 2017



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

This decision does not change your children's eligibility.

Your children's coverage through their Child Health Plus plan ended December 31, 2016.

Your children's reenrollment in a Child Health Plus plan did not become effective until February 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
- 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**

The November 28, 2016 disenrollment notice is AFFIRMED.

The January 6, 2017 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

Your children's coverage through their Child Health Plus plan ended December 31, 2016.

Your children's reenrollment in a Child Health Plus plan did not become effective until February 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)**

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).

000 00 000000000000 0000 000 00000 00000 000 000000000 00000000 00 00000,  
0000000 000 1-855-355-5777 000000 00 00000 0000 00 000000 000 0000  
0000000000 0000 000000 0000 000000 0000 000000

## **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&btumi 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.

## **שׂוּדִישׁ (Yiddish)**

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).

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).