



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

## Notice of Decision

Decision Date: May 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014922

[REDACTED]

Dear [REDACTED]

On April 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 2016 eligibility redetermination and enrollment notices, November 24, 2016 eligibility redetermination and enrollment notices, November 26, 2016 disenrollment notice, and December 22, 2016 eligibility redetermination and enrollment notices.

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.

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## Decision

Decision Date: May 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014922



## Issues

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

Did NY State of Health properly determine that your children's eligibility for financial assistance terminated effective January 1, 2017?

Did NY State of Health properly determine that your children's eligibility for and enrollment in CHP with a monthly premium of \$30.00, was next effective February 1, 2017?

## Procedural History

On September 15, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating that your children were conditionally eligible to enroll in Child Health Plus (CHP) with a \$15.00 per month premium each, effective October 1, 2016. The notice requested that you provide proof of income documentation before November 13, 2016.

Also on September 15, 2016, NYSOH issued a plan enrollment notice confirming your children's enrollment in a CHP plan with a premium of \$30.00 per month, effective October 1, 2016.

On November 21, 2016 and November 24, 2016, NYSOH issued eligibility redetermination notices stating that your children were eligible for a full price CHP plan. This was because federal and state data sources showed that your income was more than the allowable income range for that program.

On November 26, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan would end as of December 31, 2016, because they were no longer eligible to remain in their plan.

On December 22, 2016, NYSOH issued an eligibility redetermination notice stating that your children were eligible to enroll in Child Health Plus with a \$15.00 per month premium each, effective February 1, 2017.

On December 28, 2016, NYSOH issued a plan enrollment notice confirming your children's enrollment in a CHP plan with a premium of \$30.00 per month, effective February 1, 2017.

On January 18, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's loss of financial assistance in the month of January 2017.

On April 11, 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) According to your NYSOH account and your testimony, you receive all your notices from NYSOH by regular mail.
- 2) You testified that, when you applied over the phone, a NYSOH representative advised you that you would need to submit proof of income and that you would receive information on what to send to NYSOH in the mail. You further testified that the representative did not advise you when the proof of income documentation was due.
- 3) You testified that you did not receive any notice in the mail telling you that you needed to submit proof of income to confirm your children's eligibilities. You had prior issues receiving your notices from NYSOH.
- 4) According to your NYSOH account, previous notices have been returned to NYSOH as undeliverable because they were sent to an incorrect address. The September 15, 2016 notice was sent to the correct address on record and has not been returned to NYSOH as undeliverable mail.
- 5) You testified that you did not know that you needed to update your children's account until you received the November 21, 2016 eligibility redetermination notice in the mail.

- 6) According to your NYSOH account, on December 21, 2016, NYSOH received your children's updated application for health insurance. You enrolled them in a health plan on December 27, 2016.
- 7) You testified that you are only appealing your children's loss of financial assistance for the month of January 2017.
- 8) You testified that you did not pay the premium for January 2017 and your children's coverage was cancelled by the health plan.
- 9) You testified that your children had no medical bills for January 2017 but you are worried about the tax implications because of a lapse in health coverage.

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

## **Applicable Law and Regulations**

### Child Health Plus Verification Process

A child who meets the eligibility requirements for CHP 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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 (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

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 (45 CFR §155.315(f) 42 CFR § 435.952).

### Child Health Plus

The "period of eligibility" for CHP 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

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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 CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP 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 CHP 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 first issue under review is whether NYSOH properly determined that your children’s eligibility for financial assistance ended December 31, 2016.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household’s projected annual income. For individuals seeking enrollment in the CHP plan, NYSOH must request income data from federal data sources to verify an individual’s income attestation.

If NYSOH cannot verify an individual’s attestation, it must provide the individual with notice of the inconsistency and provide a period of 90 days from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on September 15, 2016, you were advised that your children’s eligibility was only conditional, and that you needed to confirm your household’s income before November 13, 2016.

Because there was no timely response to this notice, your children were terminated from their CHP Plan as of December 31, 2016.

You testified that you were notified by a NYSOH representative that proof of income was needed to confirm your children’s eligibilities, but were told that you would receive additional information by mail. You further testified that you did not receive any notice in the mail from NYSOH telling you what proof of income was needed by NYSOH on your children’s behalf or when it was due. You testified, and your NYSOH account confirms, that you elected to receive notifications via

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regular mail. Although, there is evidence in the record that previous notices had been returned to NYSOH, those notices all had an error in the address. The September 15, 2016 notice in question, which stated that proof of income was needed by November 13, 2016 to confirm your children's eligibilities, had the correct address and this notice was not returned to NYSOH as undeliverable.

Since you were notified by a NYSOH representative that proof of income documentation was needed and the September 15, 2016, eligibility determination notice was not returned as undeliverable, the record reflects that NYSOH properly notified you that you needed to provide proof of income to ensure your children's eligibility for financial assistance would continue.

If NYSOH remains unable to verify the attestation of the applicant, NYSOH must redetermine an individual's eligibility based on the information available from the data sources unless the applicant demonstrates that they are unable to provide the required documentation.

You never submitted proof of income nor did you demonstrate that you could not. Accordingly, your child's eligibility for CHP ended December 31, 2016.

Therefore, the November 21, 2016 and November 24, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

Likewise, the November 26, 2016 disenrollment notice is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in CHP with a monthly premium of \$30.00, was effective February 1, 2017.

The record reflects that you first updated your children's eligibility for financial assistance through NYSOH for 2017 on December 21, 2016, and enrolled them into a CHP plan on December 27, 2016.

The date on which financial assistance for CHP 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 between 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 you selected a CHP plan for your children on December 27, 2016, their enrollment would properly take effect on the first day of the second month following December 2016; that is, on February 1, 2017.

Therefore, NYSOH's December 22, 2016 eligibility redetermination and December 28, 2016 enrollment confirmation notices stating that your children's eligibility for CHP and enrollment in a CHP plan with a premium of \$30.00 per month are AFFIRMED because they properly began your children's eligibility for financial assistance and enrollment in CHP as of February 1, 2017.

## **Decision**

The November 21, 2016 and November 24, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

The November 26, 2016, disenrollment notice is AFFIRMED

The December 22, 2016 eligibility redetermination notices and December 28, 2016 enrollment confirmation notice stating that your children's eligibility for CHP and enrollment in a CHP plan with a premium of \$30.00 per month were effective February 1, 2017, are AFFIRMED.

**Effective Date of this Decision:** May 11, 2017

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

NYSOH properly found your children's eligibility for financial assistance ended December 31, 2016, because you did not provide documentation of your household's income.

NYSOH properly found that your children's reenrollment in CHP with financial assistance was next effective February 1, 2017.

Your children did not have health insurance coverage through NYSOH during the month of January 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.

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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 November 21, 2016 and November 24, 2016 eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

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The November 26, 2016, disenrollment notice is AFFIRMED

The December 22, 2016 eligibility redetermination notices and December 28, 2016 enrollment confirmation notice stating that your children's eligibility for CHP and enrollment in a CHP plan with a premium of \$30.00 per month were effective February 1, 2017, are AFFIRMED.

NYSOH properly found your children's eligibility for financial assistance ended December 31, 2016, because you did not provide documentation of your household's income.

NYSOH properly found that your children's reenrollment in CHP with financial assistance was next effective February 1, 2017.

Your children did not have health insurance coverage through NYSOH during the month of January 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 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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