



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

## Notice of Decision

Decision Date: May 16, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015560

[REDACTED]

[REDACTED]

On May 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 3, 2017 disenrollment, eligibility determination, and plan 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 16, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015560

[REDACTED]

## Issues

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

Was your children's Child Health Plus plan properly terminated for non-payment of premiums, effective January 31, 2017?

Did New York State of Health (NYSOH) properly determine that your children's enrollment in their Child Health Plus plan next had an enrollment start date of March 1, 2017?

Did NYSOH properly determine that your children were eligible to enroll in a Child Health Plus plan at full cost, effective as of March 1, 2017?

Whether your children's Child Health Plus plan properly increased their monthly health insurance premiums?

## Procedural History

On November 19, 2016, NYSOH issued an eligibility determination notice stating in part that your children were eligible for Child Health Plus at full cost, effective as of January 1, 2017.

Also on November 19, 2016, NYSOH issued a plan enrollment notice confirming that your children were enrolled in a Child Health Plus plan with an enrollment start date of January 1, 2017.

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On February 3, 2017, NYSOH issued a disenrollment notice stating that your children's health insurance coverage would end January 31, 2017, because you did not pay their insurance bill by the payment deadline.

On February 6, 2017, you updated your NYSOH account. That same day, NYSOH prepared a preliminary eligibility determination finding your children eligible for Child Health Plus at full cost, effective March 1, 2017.

Also on February 6, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal relative to the enrollment start date of your children's Child Health Plus plan and your children's eligibility for financial assistance.

On February 7, 2017, NYSOH issued an eligibility determination notice stating in part that your children were eligible for Child Health Plus at full cost, effective March 1, 2017.

Also on February 7, 2017, NYSOH issued a plan enrollment notice confirming that as of February 6, 2017, your children were enrolled in Child Health Plus plan with an enrollment start date of March 1, 2017.

On May 9, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was 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 testimony, you have two children, [REDACTED].
- 2) According to your NYSOH account, your children were enrolled in a Child Health Plus plan at full cost with an enrollment start date of January 1, 2017.
- 3) According to the November 19, 2016 plan enrollment notice, your children were enrolled in health plan with a monthly premium of \$370.70 (see Document [REDACTED]).
- 4) You testified that you did not realize that February 2017 health insurance premium was due to the Child Health Plus plan by the end of January 2017.
- 5) You testified that you never received a cancellation notice from the health insurance company.

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- 6) You testified that you found out that your children's coverage had been cancelled when you received the February 3, 2017 disenrollment notice from NYSOH.
- 7) According to your NYSOH account, you re-enrolled your children in a Child Health Plus on February 6, 2017.
- 8) According to your NYSOH account and testimony, you expect to file your 2017 federal income tax return, with the tax status of married filing jointly, and expect to claim your two children as dependents on that return.
- 9) According to your NYSOH account and testimony, your expected 2017 household income is \$98,464.00.
- 10) According to the February 7, 2017 plan enrollment notice, your children were enrolled in a Child Health Plus plan with a monthly premium of \$419.14, effective March 1, 2017 (see Document [REDACTED]).

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)).

### Child Health Plus – Enrollment Start Date

“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).

### Child Health Plus – Eligibility

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)).

In an analysis of Medicaid or Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

An individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year, the household is the household of the taxpayer claiming such individual as a tax dependent (42 CFR § 435.603(f)(2)).

## **Legal Analysis**

The first issue under review is whether your children's enrollment in their Child Health Plus plan was terminated effective January 31, 2017 because of non-payment of premiums.

The record indicates that you children were enrolled into a Child Health Plus plan effective January 1, 2017. On February 3, 2017, NYSOH issued a disenrollment notice stating that your children's plan would be cancelled effective January 31, 2017 because a premium payment had not been received by their health plan.

You testified that you never received a cancellation notice from the health insurance company, and did not discover that your children's coverage had been cancelled until you received the February 3, 2017 disenrollment notice from NYSOH.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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

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premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the February 3, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was effective March 1, 2017.

The record reflects that on February 6, 2017, your account was updated and your children were reenrolled in a Child Health Plus plan.

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 health plan was selected on February 6, 2017, it must take effect on the first day of the month after February 6, 2017; that is, on March 1, 2017.

Therefore, the February 7, 2017 plan enrollment notice properly stated that your children's enrollment in their Child Health Plus plan started March 1, 2017 and is AFFIRMED.

The third issue under review is whether your children were properly determined eligible to enroll in a Child Health Plus plan at full cost.

Children who meet 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 FPL.

You testified that you expect to file your 2017 federal income tax return, with the tax status of married filing jointly, and expect to claim two dependents on that return. Therefore, your children are in a four-person household for purposes for this analysis.

The record reflects that you attested to an expected household income of \$98,464.00. On the date of your application, the relevant FPL was \$24,600.00 for a four-person household. Since \$98,464.00 is 400.26% of the 2017 FPL, NYSOH properly found each of your children to be eligible for Child Health Plus at full

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cost. Therefore, the February 7, 2017, eligibility determination notice is AFFIRMED.

The fourth issue under review is whether your children's Child Health Plus plan properly increased their monthly health insurance premiums.

On November 19, 2016, NYSOH issued an enrollment notice stating that your children were enrolled in health plan with a monthly premium of \$370.70 (see Document [REDACTED]). However, on February 7, 2017, NYSOH issued an enrollment notice stating that your children were enrolled in a health plan with a monthly premium of \$419.14 (see Document [REDACTED]).

Based on the analysis provided above regarding appealable issues, the Appeals Unit is not given the authority to review the Child Health Plus monthly premiums decided upon by your health plan. Therefore, this issue is DISMISSED as a non-appealable issue.

## **Decision**

Your appeal of the February 3, 2017, disenrollment notice is DISMISSED.

The February 7, 2017 enrollment notice is AFFIRMED.

The February 7, 2017, eligibility determination notice is AFFIRMED.

Your appeal of the increase in your children's monthly premiums is DISMISSED.

**Effective Date of this Decision:** May 16, 2017

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

The enrollment start date of your children's Child Health Plus plan is March 1, 2017.

Your children remain eligible to enroll in Child Health Plus at full cost.

## **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.

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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 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:  
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- By fax: 1-855-900-5557

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## **Summary**

Your appeal of the February 3, 2017, disenrollment notice is DISMISSED.

The February 7, 2017 enrollment notice is AFFIRMED.

The February 7, 2017, eligibility determination notice is AFFIRMED.

Your appeal of the increase in your children's monthly premiums is DISMISSED.

The enrollment start date of your children's Child Health Plus plan is March 1, 2017.

Your children remain eligible to enroll in Child Health Plus at full cost.

## **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)

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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।

### **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.

### **אַײַדיש (Yiddish)**

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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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