



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

## Notice of Decision

Decision Date: June 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015736

[REDACTED]

Dear [REDACTED],

On May 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 2016 eligibility determination and disenrollment 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: June 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015736

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) provide you proper and adequate notice that your child's eligibility for and enrollment in Child Health Plus terminated as of November 30, 2016?

## Procedural History

On October 22, 2015, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus effective December 1, 2015. Your child was subsequently enrolled in a Child Health Plus plan with an enrollment start date of February 1, 2016.

On October 8, 2016, NYSOH issued a notice that it was time to renew your child's health insurance for the next coverage year. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your child qualified for financial help paying for her coverage. The notice asked that you update the information in your account by November 15, 2016 or the financial assistance your child was receiving might end.

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

On November 17, 2016, NYSOH issued an eligibility determination notice stating that, effective December 1, 2016, your child was no longer eligible for health

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insurance through NYSOH because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

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

On November 23, 2016, NYSOH issued a disenrollment notice stating that your child's coverage through her Child Health Plus plan would end November 30, 2016, because you did not renew her health insurance coverage.

On November 23, 2016, NYSOH issued an eligibility determination notice, based on your November 22, 2016 updated application, stating that your child was eligible to enroll in Child Health Plus, with a \$9.00 monthly premium, effective January 1, 2017.

Also on November 23, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on November 22, 2016, confirming your child's enrollment in a Child Health Plus plan with a \$9.00 monthly premium and that coverage would start on January 1, 2017.

On February 10, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as she did not have coverage for the month of December 2016.

On May 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) You testified that you are only appealing your child's disenrollment from her Child Health Plus plan for the month of December 2016.
- 2) You testified that you previously received all of your notices from NYSOH by regular mail.
- 3) The October 8, 2016 renewal notice does not indicate that your child's Child Health Plus plan enrollment would be terminated if you failed to respond. The notice does state that your child's financial eligibility may end. You testified that you did receive the October 8, 2016 renewal notice by regular mail.

- 4) You testified that you called before the November 15, 2016 deadline to update your account, however, there is no record of any call documented in your NYSOH account.
- 5) You testified that you became aware that your child's eligibility for enrollment in her Child Health Plus would end, effective December 1, 2016 when you received the November 17, 2016 eligibility redetermination notice.
- 6) You testified that, when you became aware that your child would not be eligible for health insurance, you contacted NYSOH to reenroll her.
- 7) On November 22, 2016, NYSOH received your updated application and Child Health Plus plan selection. Your child was re-enrolled in her Child Health Plus plan with a plan start date of January 1, 2017.
- 8) You testified that your child required medical care in the month of December 2016 and that these bills remain unpaid.

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

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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 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 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 proper and adequate notice that your child's eligibility for and enrollment in Child Health Plus terminated as of November 30, 2016.

Your child was originally found eligible for Child Health Plus effective December 1, 2015 and was enrolled in a plan with coverage starting February 1, 2016.

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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 October 8, 2016, renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your child qualified for financial help paying for her coverage. The notice asked that you update the information in your account by November 15, 2016 or the financial assistance your child was receiving may end.

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

On November 23, 2016, NYSOH issued a disenrollment notice stating that your child's coverage in her Child Health Plus plan would end effective November 30, 2016. According to the eligibility determination issued on November 17, 2016, this was because you did not respond to the renewal notice and did not complete the renewal in the required time frame.

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. The October 8, 2016 renewal notice does not indicate that your child's Child Health Plus plan enrollment would be terminated if you failed to respond. You were first informed that your child's coverage through her Child Health Plus plan would end in the November 17, 2016 eligibility determination and November 23, 2016 disenrollment notices.

The record indicates that, on November 22, 2016, you updated your NYSOH account and submitted an updated application for your child. You testified that you updated the account as soon as you received the notice that your child's eligibility would end effective December 1, 2016 and that she would be disenrolled from coverage.

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 you would have received NYSOH's notice terminating your child's Child Health Plus eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account would not have been effective until January 1, 2017 and could not prevent an gap in coverage for the month of December 2016.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your child for the month of December 2016. As such, the November 17, 2016 eligibility determination notice is RESCINDED; the November 23, 2016

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eligibility determination notice is MODIFIED to state your child was eligible to enroll in CHP as of December 1, 2016; and November 23, 2016 disenrollment notice are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2016, and to notify you accordingly.

## **Decision**

The November 17, 2016 eligibility determination notice is RESCINDED.

The November 23, 2016 eligibility determination notice is MODIFIED to state your child was eligible to enroll in CHP as of December 1, 2016.

The November 23, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2016, and to notify you accordingly.

You will be responsible for any premium payment that is due for your child's Child Health Plus plan for the month of December 2016.

**Effective Date of this Decision:** June 12, 2017

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

Your child should not have been terminated from her Child Health Plus plan in December 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2016. NYSOH will notify you once this has been completed.

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.

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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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

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).

The November 17, 2016 eligibility determination notice is RESCINDED.

The November 23, 2016 eligibility determination notice is MODIFIED to state your child was eligible to enroll in CHP as of December 1, 2016.

The November 23, 2016 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2016, and to notify you accordingly.

You will be responsible for any premium payment that is due for your child's Child Health Plus coverage for December 2016.

Your child should not have been terminated from her Child Health Plus plan in December 2016 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2016. NYSOH will notify you once this has been completed.

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:**



## **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 مجانًا.

### **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&tumi 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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