



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

## Notice of Decision

Decision Date: May 25, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000015842

[REDACTED]

Dear [REDACTED]

On May 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 22, 2017 eligibility determination notice and the March 5, 2017 disenrollment 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 25, 2014

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015842



## 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 enrollment in their Child Health Plus plan was effective March 1, 2017?

Did NY State of Health properly terminate your children's enrollment in their Child Health Plus plan, effective March 1, 2017, because of non-payment of premiums?

## Procedural History

On February 12, 2016, NYSOH issued a notice of eligibility determination, based on your February 11, 2016 application, stating that your children were eligible for Child Health Plus effective March 1, 2016. Your children were subsequently enrolled in a Child Health Plus plan.

On January 5, 2017, NYSOH issued a notice that it was time to renew your children's health insurance. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by February 15, 2017 or the financial assistance your children were receiving may end.

On January 21, 2017, you updated your children's application for financial assistance with health insurance.

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On January 22, 2017, NYSOH issued a notice of eligibility determination, based on your January 21, 2017 application, stating that your children were eligible for Child Health Plus, effective March 1, 2017.

Also on January 22, 2017, NYSOH issued a notice of enrollment, based on your plan selection on January 21, 2017, stating that your children were enrolled in their Child Health Plus plan and that their coverage would start on March 1, 2017.

On February 14, 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 February 2017.

On March 5, 2017, NYSOH issued a notice of disenrollment stating that your children's enrollment in their Child Health Plus plan ended on March 1, 2017 because you did not pay your premium by the payment deadline.

On May 18, 2017, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On May 19, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. 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 February 2017.
- 2) You testified that you previously received all of your notices from NYSOH by regular mail.
- 3) You testified that you cannot recall if you received the January 5, 2017 renewal notice, however, you believe this is what prompted you to update your account on January 21, 2017.
- 4) You testified that you contacted your children's Child Health Plus plan in February 2017 to pay your children's premium. You knew that you were late in paying their January 2017 premium, and contacted the Child Health Plus plan to make a payment for both January 2017 and February 2017. You further testified that it was during that phone call

that you were advised that your children had been disenrolled from their Child Health Plus plan as of January 31, 2017 for failure to pay premiums.

- 5) You testified that when you contacted NYSOH, you were advised that your children's Child Health Plus plan would restart as of March 1, 2017.
- 6) You testified that it is your understanding that your children had no coverage in the month of February 1, 2017, but that they have continued to have coverage since March 1, 2017.
- 7) You testified that you made premium payments to your children's Child Health Plus plan for March 2017, April 2017, and May 2017.
- 8) You testified that your last contact with your children's Child Health Plus plan was on May 8, 2017 or May 9, 2017 when you made the premium payment for May 2017 over the phone and your payment was accepted.
- 9) You testified that you want your children to have coverage for February 2017 as you believe you may receive bills for treatment they received during February 2017.
- 10) Your NYSOH account reflects that your children were enrolled in their Child Health Plus plan for February 2017 and were disenrolled from their Child Health Plus plan for failure to pay premiums as of March 1, 2017.

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;

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- 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).

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)).

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).

### Appealable Issues

An applicant has the right to appeal: (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 the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the NY State of Health Appeals Unit (45 CFR § 155.505).

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## Legal Analysis

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

Your children were originally found eligible for Child Health Plus and enrolled effective March 1, 2016.

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 January 5, 2017 renewal notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by February 15, 2017 or the financial assistance your children were receiving may end.

The record indicates that on January 21, 2017 you updated your NYSOH account and submitted an updated application for your children.

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.

As you updated your children's application for financial assistance with health insurance on January 21, 2017 and selected a plan for enrollment that day, your children's enrollment properly began on the first of the second month following January 2017; that is, on March 1, 2017.

Therefore, the January 22, 2017 eligibility determination and the January 22, 2017 enrollment confirmation notice stating that your children's eligibility for and enrollment in their Child Health Plus plan was effective March 1, 2017, is correct and must be AFFIRMED.

The second issue is whether NYSOH properly terminated your children's enrollment in their Child Health Plus plan, effective March 1, 2017, because of non-payment of premiums.

The record indicates that your children were enrolled into their Child Health Plus plan, effective March 1, 2016. You testified that you were late in paying your January 2017 premium and attempted to make this premium payment at the

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same time you made your February 2017 premium payment, but were advised that your children had been disenrolled from their Child Health Plus plan, effective January 31, 2017 for failure to pay premiums.

On March 5, 2017, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan had ended as of March 1, 2017 for failure to pay premiums.

However, you testified that you have made premium payments to your children's Child Health Plus plan for March 2017, April 2017, and May 2017.

The New York State of Health 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 premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination and (5) a denial of a request to vacate dismissal made by the New York State of Health Appeals Unit.

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 or not your children were properly terminated from their Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the March 5, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

However, as you testified that your children's Child Health Plus plan was actually terminated as of January 31, 2017, that your children have had coverage since March 1, 2017, that you have continued to make premium payments, and the plan has continued to accept the premium payments, your case is **RETURNED** to NYSOH Plan Management to investigate whether your children have continued to have coverage since March 1, 2017.

## **Decision**

The January 22, 2017 eligibility determination is **AFFIRMED**.

The January 22, 2017 enrollment confirmation notice is **AFFIRMED**.

The appeal of the March 5, 2017 disenrollment notice is **DISMISSED**.

Your case is **RETURNED** to NYSOH Plan Management to investigate whether your children have continued to have coverage since March 1, 2017.



**Effective Date of this Decision: May 25, 2017**

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

The effective date of your children's coverage was March 1, 2017.

The NYSOH Appeals Unit cannot address the issue of disenrollment for non-payment of premiums.

Your case is being sent back to NYSOH Plan Management to investigate whether your children have continued to have coverage since March 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 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 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 January 22, 2017 eligibility determination is AFFIRMED.

The January 22, 2017 enrollment confirmation notice is AFFIRMED.

The appeal of the March 5, 2017 disenrollment notice was DISMISSED.

Your case is RETURNED to NYSOH Plan Management to investigate whether your children have continued to have coverage since March 1, 2017.

The effective date of your children's coverage is March 1, 2017.

The NYSOH Appeals Unit cannot address the issue of disenrollment for non-payment of premiums.

### **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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