



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

## Notice of Decision

Decision Date: July 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016120

[REDACTED]

Dear [REDACTED],

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 24, 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.

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## Decision

Decision Date: July 7, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016120



## Issue

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

Did NY State of Health (NYSOH) properly determine that your and your spouse's enrollment in an Essential Plan, and your child's enrollment in a Child Health Plus plan, were effective April 1, 2017?

## Procedural History

On February 13, 2017, you submitted an application for financial assistance and uploaded income documentation to your NYSOH account.

On February 14, 2017, NYSOH issued a notice of eligibility determination, based on your February 13, 2017 application, stating that you and your spouse were eligible to enroll in an Essential Plan for a limited time and that your child was eligible to enroll in a Child Health Plus plan, effective March 1, 2017. The notice directed you, your spouse, and your child to select a health plan and provide income documentation by May 14, 2017.

Also on February 14, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH received from state and federal sources. The notice directed you to provide income information by May 14, 2017.

On February 23, 2017, you selected an Essential Plan for you and your spouse and a Child Health Plus plan for your child. That day, a preliminary determination was prepared stating that you and your spouse were enrolled in an Essential

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Plan and your child was enrolled in a Child Health Plus plan, effective April 1, 2017.

Also, on February 23, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of you and your spouse's enrollment in an Essential Plan and your child's enrollment in a Child Health Plus plan insofar as they did not begin on March 1, 2017.

On February 24, 2017, NYSOH issued a notice of enrollment, based on your plan selection on February 23, 2017, stating that you and your spouse were enrolled in an Essential Plan and that your child was enrolled in a Child Health Plus plan, and that the plans would begin April 1, 2017.

On May 31, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open to give the Hearing Officer the opportunity to review telephone calls that you had with NYSOH in February 2017.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You submitted an application to NYSOH for financial assistance and uploaded income documentation to your NYSOH account on February 13, 2017.
- 2) You testified you contacted NYSOH by telephone on February 13, 2017 and that a NYSOH representative advised you that you could not select a plan on that date because your income documentation had not been verified.
- 3) You had two telephone conversations with NYSOH on February 13, 2017. The Hearing Officer listened to recordings of those two telephone calls. During the telephone conversations, you were not advised that you could not select a health plan on that date.
- 4) You testified, and your NYSOH account confirms, that you receive all notices from NYSOH by electronic mail.
- 5) You testified that you received an electronic alert on February 14, 2017 notifying you of a notice in your NYSOH account stating that you and your spouse's Essential Plan eligibility was only conditional, that your son was eligible for Child Health Plus and that all three of you needed to select a health plan.

- 6) There is no evidence in your NYSOH account that any email alerts failed or that any notices were sent to you by regular mail.
- 7) You testified, and the record reflects, that you enrolled you and your spouse in an Essential Plan and your child in a Child Health Plus plan on February 23, 2017.
- 8) You testified that you were seeking to have you and your spouse's enrollment in an Essential Plan and your child's enrollment in a Child Health Plus plan begin on March 1, 2017 because you incurred medical bills during the month of March 2017.

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

## **Applicable Law and Regulations**

### Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

### Child Health Plus

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)).

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“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).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **Legal Analysis**

The issue is whether NYSOH properly determined that you and your spouse’s enrollment in an Essential Plan and your child’s enrollment in a Child Health Plus plan was effective April 1, 2017.

You testified, and NYSOH records reflect, that you submitted your NYSOH application and uploaded income documentation on February 13, 2017. As a result, you and your spouse were found conditionally eligible for the Essential Plan, and your child was found eligible for Child Health Plus, effective March 1, 2017.

You testified that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you received an electronic alert on February 14, 2017, notifying you of a notice in your NYSOH account that stated you and your spouse’s Essential Plan eligibility was conditional, that your child was eligible for Child Health Plus, and that all three of you needed to select a health plan.

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Therefore, it is concluded that NYSOH did give you the proper notice that you needed to select a health plan for you, your spouse and your child.

However, you testified, and NYSOH records reflect, that you did not enroll yourself and your spouse into an Essential Plan and your child in a Child Health Plus plan until February 23, 2017.

The date on which enrollment in an Essential Plan and a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the 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 to the end of the month goes into effect on the first day of the second following month.

On February 23, 2017, you selected an Essential Plan for you and your spouse and a Child Health Plus plan for your child, so your enrollment properly took effect on the first day of the month following March; that is, on April 1, 2017.

It is noted that you had two telephone conversations with NYSOH on February 13, 2017. If you had selected your insurance plans on that day, coverage for you, your spouse, and your child would have been effective March 1, 2017. You testified that you contacted NYSOH by telephone on February 13, 2017 and that a NYSOH representative advised you that you could not select a plan on that date because your income documentation had not been verified.

However, the Hearing Office listened to recordings of those calls, and contrary to your testimony, you were not advised that you could not select a health plan for you, your spouse, or your child on that date. Plans for your family were not selected until February 23, 2017. Accordingly, coverage for you, your spouse, and your child was correctly determined to be April 1, 2017.

Therefore, the February 24, 2017 enrollment confirmation notice stating that you and your spouse's enrollment in an Essential Plan and your child's [REDACTED] enrollment in a Child Health Plus plan was effective April 1, 2017, is correct and must be AFFIRMED.

## **Decision**

The February 24, 2017 enrollment confirmation notice is AFFIRMED.

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

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

This decision does not change you, your spouse or your child's [REDACTED] eligibility.

The effective date of you and your spouse's Essential Health Plan and your child's Child Health Plus plan is April 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 February 24, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your, your spouse's, or your child's [REDACTED] eligibility.

The effective date of you and your spouse's Essential Health Plan and your child's Child Health Plus plan is April 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)

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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 bɛtumi ama wo obi a okyerɛ 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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