



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

### Notice of Decision

Decision Date: July 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017528

[REDACTED]

Dear [REDACTED]

On July 10, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 13, 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: July 14, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017528



## 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 children's enrollment in their Child Health Plus (CHP) plan ended effective January 31, 2017?

## Procedural History

On September 15, 2016, NYSOH issued a plan enrollment notice confirming your children's enrollment in a CHP plan, with a monthly premium of \$370.70, effective October 1, 2016.

On January 13, 2017, NYSOH issued a disenrollment notice indicating your children's coverage in their CHP plan would end effective January 31, 2017, because, on January 12, 2017, you informed NYSOH that you no longer wanted them to receive coverage.

On March 30, 2017, you contacted the NYSOH Account Review Unit and appealed the date your children were disenrolled from their CHP plan, requesting the disenrollment be made effective December 31, 2016.

On July 10, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was held open to July 31, 2017 for you to submit supporting documents.

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On July 10, 2017, you submitted your cellular telephone call record dated November 12, 2016 through December 11, 2016, along with a copy of children's current insurance card and benefit summary. These documents were made part of the record as "[REDACTED]." The record closed that same day.

## **Findings of Fact**

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

- 1) You testified, and submitted documentation to show, that your children became eligible for insurance through your spouse's employer as of January 1, 2017 (see [REDACTED]).
- 2) You testified that some time before December 15, 2016, you contacted NYSOH and requested to have your children disenrolled from their CHP plan through NYSOH as of December 31, 2016.
- 3) According to NYSOH call records, there were no calls recorded from you between November 1, 2016 through December 31, 2016.
- 4) On July 10, 2017, you submitted your cellular telephone call record, dated November 12, 2016 through December 11, 2016, that show that you made four telephone calls to NYSOH's toll free telephone number on December 7, 2016, one of which was reported as 12 minutes in duration.
- 5) You testified that your children's January 2017 premium for CHP in the amount of \$370.70 was automatically deducted from your bank account.
- 6) You testified that your children did not use their CHP plan in the month of January 2017.
- 7) You testified that you are seeking retroactive disenrollment from your children's CHP plan effective December 31, 2016.

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

## **Applicable Law and Regulations**

### Termination of a Qualified Health Plan

NYSOH must permit an enrollee to terminate his or her coverage with a qualified health plan coverage, with appropriate notice to the NYSOH or qualified health plan (45 CFR § 155.430(b)(1)(i)).

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For enrollee-initiated terminations, the last day of coverage is either:

- 1) The termination date specified by the enrollee, if the enrollee provides reasonable notice (at least 14 days before the requested termination date);
- 2) Fourteen days after the enrollee requests the termination, if they do not provide reasonable notice; or
- 3) On a date on or after the date the enrollee requests the termination, if the enrollee's qualified health plan issuer and the enrollee agree to such a date

(45 CFR § 155.430(d)(2)(i)-(iii)).

NYSOH must permit an enrollee to retroactively terminate or cancel their enrollment in a qualified health plan if:

- 1) The enrollee demonstrates that they attempted to terminate their coverage and experienced a technical error that did not allow the coverage to be terminated, and requests retroactive termination within 60 days after they discovered the technical error.
- 2) The enrollment in the qualified health plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH or HHS, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment.
- 3) The enrollee was enrolled in a qualified health plan without their knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

(45 CFR § 155.430(b)(2)(iv)(A-C)).

NYSOH permits a qualified health plan to terminate an individual's coverage if (1) the enrollee is no longer eligible for coverage or (2) non-payment of the premiums by the enrollee (45 CFR § 155.430(b)(2)(i)-(ii)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your children's enrollment in their CHP plan ended effective January 31, 2017.

On September 15, 2016, NYSOH issued an enrollment notice confirming your children's enrollment in CHP plan, with a monthly premium of \$370.70, effective October 1, 2016.

On January 13, 2017, NYSOH issue a disenrollment notice indicating your children would be disenrolled their CHP plan effective January 31, 2017, based on your January 12, 2017 request to end their coverage.

You testified that you are seeking retroactive disenrollment from your children's CHP plan effective December 31, 2016

NYSOH must permit an enrollee to be retroactively disenroll from their health plan if the enrollee demonstrates that there was a technical error that should have allowed them to terminate coverage earlier, or if their enrollment in the plan was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of NYSOH, its instrumentalities, or a non-NYSOH entity providing enrollment assistance or conducting enrollment activities, or the enrollee was enrolled into a qualified health plan without their knowledge or consent by a third party.

Notwithstanding that NYSOH did not have any record of any telephone call made by you to NYSOH in December 2016, you credibly testified and submitted documentation to show that, on December 7, 2016, you contacted NYSOH to disenroll your children from their CHP plan through NYSOH as of December 31, 2016.

Since the credible evidence of record indicates telephone conversations took place between you and NYSOH on December 7, 2016, at which time you credibly testified you requested to disenroll your children from their CHP plan, effective December 31, 2016, it is reasonable to conclude that a technical error occurred that prevented your December 7, 2016 request to terminate your children's CHP coverage as of December 31, 2016 from being processed.

Further, enrollees must be allowed to terminate their coverage with a qualified health plan at the date they specify if they provide reasonable notice to NYSOH or to their health plan. Reasonable notice is defined as at least 14 days prior to the requested termination date.

NYSOH terminated your insurance coverage with your qualified health plan effective January 31, 2017, which is the last day of the month following your January 12, 2017 request. However and as already established, the record

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indicates that you initially requested to terminate your children's coverage on December 7, 2016.

Since, December 7, 2016 is 24 days prior to December 31, 2016, you provided reasonable notice to NYSOH to cancel your children's CHP plan as of that date.

Based on the technical error preventing your request to terminate your children's CHP plan on December 7, 2016, and the evidence supporting that you gave reasonable notice, your children's disenrollment from their CHP plan should have been made effective December 31, 2016. Therefore, the January 13, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their CHP plan ended effective December 31, 2016.

Your case is RETURNED to NYSOH to facilitate your children's CHP disenrollment, effective as of December 31, 2016, and to notify you accordingly.

## **Decision**

The January 13, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their CHP plan ended effective December 31, 2016.

Your case is RETURNED to NYSOH to facilitate your children's CHP disenrollment, effective as of December 31, 2016, and to notify you accordingly.

**Effective Date of this Decision:** July 14, 2017

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

You gave reasonable notice in requesting on December 7, 2016, that your children's enrollment in their CHP plan be terminated as of December 31, 2016. Because of some technical error, your request was not processed.

Your case is being sent back to NYSOH to disenroll your children from their CHP plan, as of December 31, 2016. NYSOH will notify you once this has been completed.

Once the disenrollment date is modified to December 31, 2016, your children will not have health insurance coverage in their CHP plan through NYSOH as of January 1, 2017.

You can seek from the CHP plan directly reimbursement of the January 2017 premium payment that was automatically deducted.

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 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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The January 13, 2017 disenrollment notice is MODIFIED to state that your children's coverage in their CHP plan ended effective December 31, 2016.

Your case is RETURNED to NYSOH to facilitate your children's CHP disenrollment, effective as of December 31, 2016, and to notify you accordingly.

You gave reasonable notice in requesting on December 7, 2016, that your children's enrollment in their CHP plan be terminated as of December 31, 2016. Because of some technical error, your request was not processed.

Your case is being sent back to NYSOH to disenroll your children from their CHP plan, as of December 31, 2016. NYSOH will notify you once this has been completed.

Once the disenrollment date is modified to December 31, 2016, your children will not have health insurance coverage in their CHP plan through NYSOH as of January 1, 2017.

You can seek from the CHP plan directly reimbursement of the January 2017 premium payment that was automatically deducted.

## **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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### **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.

### **שׂוֹדֵשׁ (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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