



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

**Notice of Decision**

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018106

[REDACTED]

Dear [REDACTED],

On July 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s January 13, 2017, disenrollment notice, and February 28, 2017, eligibility determination and enrollment confirmation 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.

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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## Decision

Decision Date: August 22, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018106



## Issues

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

Was your appeal of NY State of Health's January 13, 2017 disenrollment notice timely?

Did NY State of Health properly determine your two youngest children's eligibility for and enrollment in a Child Health Plus plan was effective April 1, 2017?

## Procedural History

On January 1, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your December 31, 2014 application, stating that your two youngest children were eligible for Child Health Plus for a cost of \$45.00 each, effective February 1, 2015. Your children were subsequently enrolled in a Child Health Plus plan.

On July 2, 2015, a disenrollment notice was issued stating your two children's enrollment with a Child Health Plus plan would end, effective June 30, 2015. The notice stated this was because premium payments have not been received by their plan.

On January 13, 2017, NYSOH issued a notice stating your two children's last day of coverage with their Child Health Plus plan was changed to January 31, 2016.

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).

On February 27, 2017, NYSOH received your two youngest children's application for financial assistance.

On February 28, 2017, NYSOH issued a notice of eligibility determination stating your two youngest children were eligible for Child Health Plus at a cost of \$30.00 each for a limited time, effective April 1, 2017. The notice requested proof of your household income by April 28, 2017.

Also on February 28, 2017, NYSOH issued a notice of enrollment, based on your plan selection on February 27, 2017, stating that your two youngest children were enrolled in a Child Health Plus plan and that coverage would start on April 1, 2017.

On April 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your two youngest children's Child Health Plus plan insofar as they did not have coverage for the months of February 1, 2016 to March 31, 2017.

On July 25, 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 seeking your two youngest children to have enrollment in a Child Health Plus plan for the months of February 1, 2016 through March 31, 2017.
- 2) Your two youngest children were disenrolled for nonpayment of premium effective June 30, 2015.
- 3) NYSOH issued a notice January 13, 2017, that changed the last day of coverage for your children's Child Health Plus plan to January 31, 2016.
- 4) You testified you paid premium payments and received bills from your children's Child Health Plus plan for 2016.
- 5) You testified that in December 2016 you were given a refund of the premium payments you made to the health plan for 2016 coverage year.

- 6) You testified you were told by the health plan they were refunding the premium payments because you had not renewed the coverage for your children in February, 2016.
- 7) You testified you remember being sent a letter stating your children were going to be disenrolled for the majority of 2016.
- 8) You testified after having the premium payments refunded in December, 2016, you received medical bills from doctor's your children had seen totaling approximately \$1,100.00.
- 9) You testified you remember renewing coverage for your two youngest children for 2016 online in February, 2016.
- 10) There is no record in your NYSOH account showing a renewal of coverage for your children or a new enrollment for 2016.
- 11) On February 27, 2017, NYSOH received your children's updated application and Child Health Plus plan selection.
- 12) The record shows you first provided a complaint regarding the issue of your children's disenrollment from Child Health Plus on April 17, 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;
- 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” (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).

### Timely Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

## **Legal Analysis**

The first issue is whether you provided a timely appeal of NYSOH’s January 13, 2017 disenrollment notice.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of the disenrollment of your two youngest children from their Child’s Child Health Plus plan, as addressed in the January 13, 2017 disenrollment notice, an appeal should have been filed by March 20, 2017, allowing for five days for receipt of the notice.

According to the credible evidence in the record, you did not contact NYSOH until April 17, 2017, to file a formal complaint, an appeal on this issue was not

filed until April 18, 2017. Both dates are well beyond 60 days from the January 13, 2017 disenrollment notice.

You further testified you recalled receiving a notice from your health plan and refund in December, 2016 for your past premium payments for your two youngest children for 2016.

Therefore, there has been no valid timely appeal of the January 13, 2017 disenrollment notice, and your appeal on the issue of the cancellation of your two youngest children from their Child Health Plus plan effective January 31, 2016, as stated in that notice is DISMISSED.

However, it is clear from the record that your health plan accepted payments for the majority of 2016, your case is RETURNED to NYSOH's Plan Management to assess the actions of your health plan with regard to your children's enrollment for 2016.

The second issue is whether NYSOH properly determined your two youngest children's eligibility for and enrollment in a Child Health Plus plan was effective April 1, 2017.

You testified that you contacted NYSOH on February 27, 2017, and enrolled your children into a Child Health Plus plan. Both children were determined eligible for Child Health plus for a cost of \$30.00 each for a limited time, effective April 1, 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. The same stands for the period of eligibility for Child Health Plus. 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 you enrolled your children into a plan on February 27, 2017, their plan would properly begin on the first day of the second following month after February, that is on April 1, 2017.

Therefore, the February 28, 2017, eligibility determination and enrollment confirmation notices stating that your two youngest child's enrollments in their Child Health Plus plan was effective April 1, 2017, are correct and must be AFFIRMED.

## **Decision**

Your appeal of the January 13, 2017, disenrollment notice is **DISMISSED**.

Your case is **RETURNED** to NYSOH's Child Health Plus plan management to assess the actions of your health plan with regard to your children's enrollment for 2016.

The February 28, 2017, eligibility determination and enrollment confirmation notices are **AFFIRMED**.

**Effective Date of this Decision:** August 22, 2017

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

Your two youngest children's enrollment in their Child Health Plus plan started April 1, 2017.

Your case is being sent to NYSOH's Child Health Plus plan management to review the actions of your health plan for 2016.

## **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

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).



- 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**

Your appeal of the January 13, 2017, disenrollment notice is **DISMISSED**.

Your case is **RETURNED** to NYSOH's Child Health Plus plan management to assess the actions of your health plan with regard to your children's enrollment for 2016.

The February 28, 2017, eligibility determination and enrollment confirmation notices are **AFFIRMED**.

Your two youngest children's enrollment in their Child Health Plus plan started April 1, 2017.

### **Legal Authority**

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).

We are issuing this determination in accordance with 45 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).

**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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