



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

## Notice of Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018264

[REDACTED]

Dear [REDACTED],

On September 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 8, 2016 disenrollment notice and the February 23, 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 NY State of Health 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: October 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018264



## Issues

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

Was your appeal of the December 8, 2016 disenrollment notice ending your oldest child's Child Health Plus coverage, effective December 31, 2016, timely?

Did the NY State of Health (NYSOH) properly determine that your oldest child's Child Health Plus coverage was effective no earlier than April 1, 2017?

## Procedural History

On February 27, 2016, NYSOH issued an eligibility determination notice stating your oldest child was eligible to enroll in a full price Child Health Plus plan, effective April 1, 2016. Your child subsequently enrolled in a plan.

On December 7, 2016, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your child.

On December 8, 2016, NYSOH issued a notice stating the income information in your application did not match the information obtained from state and federal data sources. The notice directed you to submit proof of your household income by December 22, 2016 or NYSOH would not be able to determine your child's eligibility for health insurance.

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Also on December 8, 2016, NYSOH issued a disenrollment notice stating that your oldest child's Child Health Plus coverage would end on December 31, 2016, because he was no longer eligible to enroll in the plan.

On February 22, 2017, NYSOH received updated applications for financial assistance with health insurance submitted on behalf of your oldest child.

On February 23, 2017, NYSOH issued an eligibility determination notice stating your oldest child was eligible for Child Health Plus with a \$9.00 monthly premium, effective April 1, 2017.

Also on February 23, 2017, NYSOH issued an enrollment notice, based on your February 22, 2017 plan selection, confirming your oldest child was enrolled in a Child Health Plus plan, effective April 1, 2017.

On April 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the effective date of your child's Child Health Plus coverage insofar as his coverage was not effective as of January 1, 2017.

On September 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 support the following findings of fact:

- 1) Your oldest child was enrolled in a Child Health Plus plan in 2016.
- 2) On December 7, 2016, an updated application was submitted on behalf of your family reducing your attested annual household income to \$6,672.00. Following this update, your oldest child was disenrolled from his Child Health Plus plan, because he was no longer eligible for Child Health Plus based on the income information in the application.
- 3) NYSOH issued a disenrollment notice on December 8, 2016 advising you that your child's Child Health Plus coverage would end on December 31, 2016.
- 4) On December 14, 2016, NYSOH received another updated application submitted on behalf of your family. That application increased your attested annual income to \$43,033.21. That application indicated your oldest child was not applying for insurance.

- 5) You testified you are seeking reinstatement of your oldest child in his Child Health Plus plan, effective January 1, 2017.
- 6) You testified you did not know why your child had been disenrolled from his plan on December 31, 2016.
- 7) You testified that your spouse went to an application counselor from your health plan in December 2016 to add your newborn to your NYSOH account. You testified that your spouse tried to give estimates of your income, but she did not know the accurate amount of income earned in 2016, because your 2016 taxes had not yet been prepared.
- 8) You testified the income amounts listed in the December 7, 2016 and December 8, 2016 applications were not accurate.
- 9) You testified you went to a different application counselor on December 14, 2016 to update the application again, but the counselor erroneously indicated that your oldest child was not applying for insurance, because that counselor believed your oldest child was already enrolled.
- 10) Your application was not updated to indicate your oldest child was seeking health coverage until February 15, 2017. That application indicated your expected annual household income for 2017 was \$0.00 and NYSOH was unable to verify that information, so income documentation was requested before NYOSH could determine your oldest child's eligibility for health insurance.
- 11) You testified that once you received your 2016 tax return in February 2017, you updated your application with accurate income information for 2017.
- 12) According to your account, your application was updated again on February 22, 2017, twice. The final application submitted that day increased your attested annual household income to \$43,356.00. Based on that application, NYSOH determined your oldest child eligible for Child Health Plus with a \$9.00 monthly premium, effective April 1, 2017.
- 13) According to your account, a Child Health Plus plan was selected for your child on February 22, 2017 and his coverage through that plan became effective April 1, 2017.
- 14) On February 23, 2017, NYSOH issued a determination denying your request for retroactive Medicaid coverage for your oldest child for the month of January 2017. You testified you are not seeking review of that determination.

- 15) According to your account, your oldest child had a gap in coverage for the months of January, February, and March 2017. You testified your child has outstanding medical bills from this time.
- 16) You testified you are seeking reinstatement of your oldest child in his Child Health Plus plan, effective January 2017 or a backdating of his subsequent Child Health Plus enrollment.
- 17) You testified that it was the application counselor's fault that your child was disenrolled from his Child Health Plus plan and you should not be penalized for it.
- 18) According to your account, the first record of you contacting NYSOH to contest the effective date of your oldest child's Child Health Plus coverage was on March 4, 2017 when incident [REDACTED] was created regarding your request to backdate his coverage to March 1, 2017.
- 19) The formal appeal in this case was filed on April 21, 2017.

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

## **Applicable Law and Regulations**

### Valid Appeals Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (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) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within 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)).

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR §155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to

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resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

### Child Health Plus – Effective Dates of Coverage

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).

## **Legal Analysis**

The first issue is whether your appeal of the December 8, 2016 disenrollment notice ending your oldest child’s Child Health Plus coverage, effective December 31, 2016, was timely.

Your oldest child was enrolled in a Child Health Plus plan in 2016. On December 7, 2016, an updated application was submitted on behalf of your oldest child. That application reduced your attested annual household income to \$6,672.00. As a result of the reduction in your attested household income, your child was no longer eligible to enroll in Child Health Plus and income documentation was requested prior to redetermining his eligibility. The disenrollment notice dated December 8, 2016 indicated your child’s coverage through his Child Health Plus plan would end on December 31, 2016, because he was no longer eligible to enroll in the plan.

You appealed the effective date of your child's subsequent Child Health Plus enrollment and have requested reinstatement in his prior plan, as of January 1, 2017. However, pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 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 December 31, 2016 termination of your oldest child's Child Health Plus coverage, as stated in the December 8, 2016 disenrollment notice, an appeal should have been filed by February 6, 2017. The formal appeal in this case was not filed until April 21, 2017, after the time to appeal the December 31, 2016 disenrollment had passed. Furthermore, the first record of you contacting NYSOH to contest the effective date of your oldest child's Child Health Plus coverage was on March 4, 2017 when incident [REDACTED] was created regarding your request to backdate his coverage to March 1, 2017. This also occurred after the 60-day period in which to appeal his prior disenrollment. Thus, there is no evidence to justify tolling the regulatory time frame to appeal your child's December 31, 2016 disenrollment from his Child Health Plus plan.

Therefore, your appeal of the December 8, 2016 disenrollment notice stating your oldest child's Child Health Plus coverage would end on December 31, 2016 is DISMISSED as there has been no timely appeal of that disenrollment.

The second issue under appeal is whether NYSOH properly determined your oldest child's subsequent Child Health Plus enrollment was effective no earlier than April 1, 2017.

Although an updated application increasing your attested annual income was submitted on behalf of you, your spouse, and your youngest child on December 14, 2016, that application indicated that your oldest child was not applying for insurance at that time. You testified that this was an error on the part of the application counselor assisting you with the application. However, it is noted that any such error in that application does not appear to have been on the part of NYSOH. Thus, information erroneously entered into an application by an individual acting as your agent is not attributable to NYSOH.

According to your account, your application was not updated to indicate your oldest child was seeking health coverage until February 15, 2017. That application indicated your expected annual household income for 2017 was \$0.00 and NYSOH was unable to verify that information. Pursuant to the above cited regulation, for all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

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In the notice dated February 16, 2017, NYSOH indicated the income information in your application did not match the information obtained from state and federal data sources. The notice directed you to submit proof of your household income by March 2, 2017 or NYSOH would not be able to determine your child's eligibility for health insurance.

It is noted that the income documentation previously submitted was invalidated by NYSOH, because it did not comply with the document requests and, thus, was insufficient evidence of your 2017 income.

You testified that once you received your 2016 tax return in February 2017, you updated your application with accurate income information for 2017. Your account confirms that your application was updated again on February 22, 2017, twice. The final application submitted that day increased your attested annual household income to \$43,356.00. Based on that application, NYSOH determined your oldest child eligible for Child Health Plus with a \$9.00 monthly premium, effective April 1, 2017. According to your account, a Child Health Plus plan was selected for your child on February 22, 2017 and his coverage through that plan became effective April 1, 2017. You appealed insofar as your child's Child Health Plus coverage was not effective January 1, 2017.

Pursuant to the regulations, 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.

Your account confirms, a health plan was selected for your child on February 22, 2017. Since this was after the fifteenth day of the month, your child's coverage properly became effective on the first day of the second following month; that is, April 1, 2017.

Therefore, the February 23, 2017 notice of enrollment stating your oldest child was enrolled in a Child Health Plus plan, effective April 1, 2017, is correct and must be AFFIRMED.

## **Decision**

Your appeal of the December 8, 2016 disenrollment notice is DISMISSED.

The February 23, 2017 notice of enrollment is AFFIRMED.

**Effective Date of this Decision:** October 20, 2017

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

This decision does not change your oldest child's eligibility or effective dates of coverage.

Your oldest child's subsequent Child Health Plus enrollment became effective on 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

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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 December 8, 2016 disenrollment notice is **DISMISSED**.

The February 23, 2017 notice of enrollment is **AFFIRMED**.

This decision does not change your oldest child's eligibility or effective dates of coverage.

Your oldest child's subsequent Child Health Plus enrollment became effective on 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 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 b e tumi ama wo obi a okyer e 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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