



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

## Notice of Decision

Decision Date: October 3, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018949



Dear [REDACTED]

On August 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 4 and 30, 2017 disenrollment 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 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.

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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018949



## Issues

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

Did NY State of Health (NYSOH) properly disenroll your oldest from his Child Health Plus plan, effective March 31, 2017?

Did NY State of Health (NYSOH) properly disenroll your newborn child from her Child Health Plus plan, effective March 1, 2017?

## Procedural History

On March 4, 2017, NYSOH issued an eligibility determination notice, based on your March 3, 2017 updated application, stating that your oldest child was eligible for Child Health Plus with a \$60.00 monthly premium, effective April 1, 2017, and your newborn child was eligible for Child Health Plus with a \$45.00 monthly premium for a limited time, effective March 1, 2017. The notice directed you to provide proof of citizenship and Social Security number for your newborn child by June 1, 2017.

Also on March 4, 2017, NYSOH issued a plan enrollment notice confirming your oldest child's enrollment date of April 1, 2017, and your newborn child's enrollment start date of March 1, 2017, and monthly premium amounts of \$60.00 and \$45.00 respectively with UnitedHealthCare Community Plan

Also on March 4, 2017, NYSOH issued a disenrollment notice that stated your oldest child's enrollment in his Child Health Plus plan with UnitedHealthCare Community Plan would end on March 31, 2017.

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On March 29, 2017, you uploaded your newborn child's birth certificate and Social Security number.

On March 30, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible for Child Health Plus with a \$60.00 monthly premium, effective May 1, 2017, and your newborn child was eligible for a full price Child Health Plus plan, effective March 1, 2017.

Also on March 30, 2017, NYSOH issued a plan enrollment notice stating that your oldest child's enrollment in a Child Health Plus with UnitedHealthCare Community Plan was effective May 1, 2017.

Also on March 30, 2017, NYSOH issued a disenrollment notice stating that your newborn child's Child Health Plus plan enrollment in UnitedHealthCare Community Plan would end March 1, 2017, because she was no longer eligible to enroll in that program.

On April 8, 2017, NYSOH issued a plan enrollment notice stating your oldest child's enrollment in a Child Health Plus plan with a \$60.00 monthly premium was effective May 1, 2017, and your newborn child's enrollment in a Child Health Plus plan with a \$232.21 monthly premium was effective April 1, 2017, both with UnitedHealthCare Community Plan.

On May 15, 2017, you spoke to NYSOH's Account Review Unit and appealed the start dates of your children's Child Health Plus plan, resulting in one month gaps in their respective coverages.

On August 31, 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 appealing only your children's start dates in their Child Health Plus plan.
- 2) According to your NYSOH account and your testimony, your oldest child had coverage in a Child Health Plus plan as of September 1, 2016.
- 3) According to your NYSOH account, your newborn child was born [REDACTED]  
[REDACTED]

- 4) You submitted an application to NYSOH for financial assistance on March 3, 2017, and added your newborn child to your NYSOH account.
- 5) According to your NYSOH account and your testimony, you selected a Child Health Plus plan for both of your children on March 3, 2017.
- 6) You provided proof of your newborn child's citizenship status and Social Security number before the deadline expired.
- 7) You testified that you timely paid every monthly premium for both children to their Child Health Plus plan.
- 8) According to your NYSOH account, your oldest child was disenrolled from his Child Health Plus coverage for the month of April 2017.
- 9) According to your NYSOH account, your newborn child was disenrolled from her Child Health Plus coverage during [REDACTED], March 2017.
- 10) You testified that you want both of your children to be reinstated into their Child Health Plus plan with UnitedHealthCare Community Plan so neither of them have any gap in coverage and to cover medical expenses you incurred in the months they were without coverage.
- 11) According to your NYSOH account, at all times relevant, your family resided in [REDACTED], New York.

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

## **Applicable Law and Regulations**

### Child Health Plus

CHP is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

The "period of eligibility" for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into CHP, the date of enrollment shall be the date of the child’s birth if the parent applied for insurance prior to the child’s birth or within 60 days after the child’s birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly disenrolled your oldest child from his Child Health Plus plan, effective March 31, 2017.

According to your NYSOH account and your testimony, your oldest child was determined eligible for and enrolled in a Child Health Plus plan, effective September 1, 2016.

Since the period of your oldest child’s Child Health Plus eligibility began on September 1, 2016, it continues until August 31, 2017, unless an event occurs to disqualify him from Child Health Plus eligibility. The record does not indicate that any Child Health Plus premiums were not timely paid, that your oldest child gained access to or obtained other health insurance, or that he became eligible for Medicaid. The record does confirm that he still resides in New York State.

When you added your newborn to your account on March 3, 2017 and provided required documentation on March 29, 2017, additional determinations were made regarding your oldest child when the twelve-month period of his Child Health Plus eligibility that began on September 1, 2016, had not yet expired and

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no event had occurred to end that eligibility. According to the credible evidence of record, your oldest child's Child Health Plus coverage should not have ended effective March 31, 2017.

Therefore, the March 4, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your oldest child's coverage in his Child Health Plus plan, effective April 1, 2017, and to notify you accordingly.

The second issue under review is whether NYSOH properly disenrolled your newborn child from her Child Health Plus plan, effective March 1, 2017.

Your newborn child was born [REDACTED], and on March 3, 2017, your youngest child was added to your NYSOH account. She was found eligible for enrollment in CHP, and a plan was selected on March 3, 2017, with an enrollment start date of March 1, 2017.

In New York State, the date on which a Child Health Plus plan can take effect typically depends on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

However, section 2511 of the Public Health Law has been amended to provide that Child Health Plus coverage shall be retroactive to the first of the month of birth for newborns, effective January 1, 2017, provided that the application for coverage on behalf of the child was made prior to, or within sixty days of, the child's birth.

Your application and Child Health Plus enrollment selection for your newborn child were received by NYSOH on March 3, 2017, which was clearly within sixty days of her [REDACTED] birth. Therefore, at the time, NYSOH properly determined that your newborn child's eligibility for, and enrollment in, her Child Health Plus coverage began as of March 1, 2017, as that is the first of the month of your child's birth. The March 4, 2017 notices to this effect are AFFIRMED.

However, the record reflects that, on March 29, 2017, NYSOH redetermined your newborn child's eligible for and enrollment in Child Health Plus, which inexplicably resulted in her being disenrolled her from her coverage, effective March 1, 2017.

Since the record supports that your newborn child was eligible for Child Health Plus and should have remained enrolled in her Child Health Plus plan as of March 1, 2017, such that her disenrollment was in error, the March 30, 2017 disenrollment notice is RESCINDED.

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Your case is further RETURNED to NYSOH to reinstate her coverage in her Child health Plus plan, effective March 1, 2017, and to notify you accordingly.

So as to ensure continuity of coverage, for purposes of determining your children's respective eligibilities and enrollments, the March 30, 2017 eligibility determination and plan enrollment notices remain in full force and effect. This means your children might have different renewal periods in 2018.

## **Decision**

The March 4, 2017 eligibility determination and plan enrollment notices are AFFIRMED, to the extent that your newborn child was determined eligible for Child Health Plus and enrolled in a Child Health Plus plan, effective March 1, 2017.

The March 4, 2017 disenrollment notice stating your oldest child is disenrolled from his Child Health Plus plan, effective March 31, 2017, is RESCINDED.

Your case is RETURNED to NYSOH to reinstate his coverage in his Child Health Plus plan, effective April 1, 2017, and to notify you accordingly.

The March 30, 2017 disenrollment notice stating your newborn child is disenrolled effective March 1, 2017, is RESCINDED.

Your case is further RETURNED to NYSOH to reinstate her coverage in her Child health Plus plan, effective March 1, 2017, and to notify you accordingly.

So as to ensure continuity of coverage for both children for purposes of determining their respective eligibilities and enrollments going forward, the March 30, 2017 eligibility determination and plan enrollment notices remain in full force and effect. This means your children might have different renewal periods in 2018.

**Effective Date of this Decision:** October 3, 2017

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

Your case is being sent back to NYSOH to effectuate the following changes to eliminate the gaps in Child Health Plus coverage for each of your children:

1) To reinstate your oldest child's coverage in his Child Health Plus plan as of April 1, 2017; and



2) To reinstate your newborn child's coverage in her Child Health Plus plan, effective March 1, 2017.

NYSOH will notify you once your children's respective coverages have been reinstated.

You will be responsible to pay the Child Health Plus monthly premiums for both children in order for their coverages to resume in the respective months at issue.

Your oldest child's next eligibility for Child Health Plus and enrollment in a health plan as of May 1, 2017, remains in effect.

Your newborn child's next eligibility for Child Health Plus and enrollment in a health plan as of April 1, 2017, remains in effect.

### **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 March 4, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**, to the extent that your newborn child was determined eligible for Child Health Plus and enrolled in a Child Health Plus plan, effective March 1, 2017.

The March 4, 2017 disenrollment notice stating your oldest child is disenrolled from his Child Health Plus plan, effective March 31, 2017, is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate his coverage in his Child Health Plus plan, effective April 1, 2017, and to notify you accordingly.

The March 30, 2017 disenrollment notice stating your newborn child is disenrolled effective March 1, 2017, is **RESCINDED**.

Your case is further **RETURNED** to NYSOH to reinstate her coverage in her Child health Plus plan, effective March 1, 2017, and to notify you accordingly.

So as to ensure continuity of coverage for both children for purposes of determining their respective eligibilities and enrollments going forward, the March 30, 2017 eligibility determination and plan enrollment notices remain in full force and effect. This means your children might have different renewal periods in 2018.

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1) To reinstate your oldest child's coverage in his Child Health Plus plan as of April 1, 2017; and

2) To reinstate your newborn child's coverage in her Child Health Plus plan, effective March 1, 2017.

NYSOH will notify you once your children's respective coverages have been reinstated.

You will be responsible to pay the Child Health Plus monthly premiums for both children in order for their coverages to resume in the respective months at issue.

Your oldest child's next eligibility for Child Health Plus and enrollment in a health plan as of May 1, 2017, remains in effect.

Your newborn child's next eligibility for Child Health Plus and enrollment in a health plan as of April 1, 2017, remains in effect.

## **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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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