



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

## Notice of Decision

Decision Date: October 5, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018984

[REDACTED]

Dear [REDACTED]

On September 7, 2017, you appeared by telephone at a hearing on your appeal of the cancellation of your child's Child Health Plus coverage and NY State of Health's May 4, 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.

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: October 5, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000018984

[REDACTED]

## Issues

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

Did New York State of Health (NYSOH) properly terminate your child's Child Health Plus plan for non-payment of premium effective, April 30, 2017?

Did NYSOH properly determine that your child's reenrollment in their Child Health Plus plan was effective June 1, 2017?

## Procedural History

On February 7, 2017, NYSOH received your application for health insurance.

On February 8, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus, effective March 1, 2017.

Also on February 8, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a qualified health plan, effective March 1, 2017.

On March 9, 2017, NYSOH issued a notice confirming that you updated your mailing address on March 8, 2017.

On May 3, 2017, NYSOH received your updated application for financial assistance with health insurance.

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On May 4, 2017, NYOH issued an eligibility determination notice, stating that your child was eligible for Child Health Plus, effective June 1, 2017.

Also on May 4, 2017, NYSOH issued an enrollment confirmation notice, stating that your child was enrolled in Child Health Plus, effective June 1, 2017.

On May 11, 2017, an application for financial assistance was run on your behalf.

On May 12, 2017, NYSOH issued a discontinuance notice stating that your child's Child Health Plus would end effective June 1, 2017, because notices regarding your child's eligibility and coverage sent to you by NYSOH were returned to NYSOH as undeliverable. This notice also stated that you needed to update your mailing address so that your child could remain eligible for health coverage through NYOSH.

Also on May 12, 2017, NYSOH issued a disenrollment notice, stating that your child's enrollment in a Child Health Plus plan would end on June 1, 2017.

On May 15, 2017, NYSOH received your updated application for financial assistance.

On May 16, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus, effective June 1, 2017.

Also on May 16, 2017, NYSOH issued an enrollment confirmation notice, stating that your child was enrolled in Child Health Plus, effective June 1, 2017.

Also on May 16, 2017, NYSOH issued a notice confirming your mailing address.

Also on May 16, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your child did not have coverage in May 2017.

On August 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The issue appeared to have been resolved, and the Hearing Officer agreed to adjourn the hearing to allow you time to speak with NYSOH.

On September 1, 2017, you had an adjourned telephone hearing with a Hearing officer from NYSOH's Appeals Unit. You had been unable to confirm resolution of your issue, and the Hearing Officer agreed to adjourn the hearing to allow you additional time to contact NYSOH.

On September 7, 2017, you had an adjourned 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.

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## Findings of Fact

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

- 1) You testified that you are appealing your child's disenrollment from Child Health Plus coverage for the month of May 2017.
- 2) Your child was enrolled into a Child Health Plus plan, effective March 1, 2017.
- 3) You testified that you missed a premium payment because you did not receive a bill due to an issue with your mailing address.
- 4) You testified that although the street number and name were correct, NYSOH and the plan had the incorrect town and so you did not receive the notices or the bill from the health plan. You testified that you live in [REDACTED] NY and not [REDACTED] NY.
- 5) You testified that you updated your address in March 2017 to state that you live in [REDACTED] NY. You testified that your landlord had given you incorrect information when you moved to that location.
- 6) The record reflects that your address details were confirmed online on March 8, 2017, and NYSOH issued a March 9, 2017 notice confirming your mailing address at [REDACTED].
- 7) The record reflects that your child was disenrolled from Child Health Plus for the month of May 2017. You testified that you spoke to your child's health plan, and they advised you that the disenrollment was due to non-payment of premium.
- 8) The record contains complaint [REDACTED], which contains an entry dated July 19, 2017, which states "Child was enrolled with CDPHP CHP and terminated 4/30/17 due to non-payment. Child has a gap in coverage for May due to non-payment termination."
- 9) You testified that you became aware that your child had been disenrolled from her health plan at the end of April 2017 or beginning of May 2017. You testified that you checked your account at that time because you had not received a bill, and discovered that your child had no coverage.
- 10) You testified that when you became aware that your child had been disenrolled, you contacted NYSOH to reenroll her.

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

## **Applicable Law and Regulations**

### De Novo Review

NYSOH Appeals Unit must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

### Valid Appeal 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) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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 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)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

### Appealable Issues

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) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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)).

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## 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 Child Health Plus 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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## Legal Analysis

The first issue under review is whether NYSOH properly terminated your children's Child Health Plus plan for non-payment of premium effective, May 1, 2017.

You testified that you are appealing your child's disenrollment from her Child Health Plus plan for the month of May 2017.

On February 7, 2017, your child was enrolled in a Child Health Plus plan, effective March 1, 2017.

You testified that you missed a premium payment because you never received a bill from the health plan. You testified that the bill went to the wrong address because of an error with the town listed in your account; you live in [REDACTED], NY and not [REDACTED] NY..

The record reflects that your child was disenrolled from Child Health Plus coverage effective March 31, 2017 due to nonpayment of premium.

NYSOH Appeals Unit only has the authority to review issues related to the following: (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) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of a special enrollment period.

Since the Appeals Unit is not given the authority to review termination of enrollment due to non-payment of premiums, we cannot reach the merits as to whether or not your child was properly terminated from her Child Health Plus plan for non-payment of premiums. Therefore, your appeal of your child's disenrollment from her Child Health Plus plan for nonpayment of premium, effective May 1, 2017 is DISMISSED as a non-appealable issue.

The second issue is whether NYSOH properly determined that your child's reenrollment in a Child Health Plus plan was effective June 1, 2017.

You contacted NYSOH on May 3, 2017 to reenroll your child into a Child Health Plus plan.

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.

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).



As you contacted NYSOH to reenroll your child into a Child Health Plus plan on May 3, 2017, her reenrollment should have taken effect the first day of the following month after May 3, 2017; that is, on June 1, 2017.

Therefore, the May 4, 2017 enrollment confirmation notice stating that your child's reenrollment in their Child Health Plus plan was effective June 1, 2017 is AFFIRMED.

## **Decision**

Your appeal of the insurer's termination of your child's enrollment in a Child Health Plus plan for non-payment of premiums, effective May 1, 2017, is DISMISSED as a non-appealable issue.

The May 4, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision: October 5, 2017**

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

This decision does not change your children's eligibility.

Your child's reenrollment in her Child Health Plus plan was effective June 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 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 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  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Your appeal of the insurer's termination of your child's enrollment in a Child Health Plus plan for non-payment of premiums, effective May 1, 2017, is **DISMISSED** as a non-appealable issue.

The May 16, 2017 eligibility determination notice is **AFFIRMED**.

This decision does not change your child's eligibility.

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).

Your child's reenrollment in their Child Health Plus plan was effective June 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.

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## **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।

## **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.

## **Twí (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.