



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

### Notice of Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020753

[REDACTED]

Dear [REDACTED],

On October 4, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 21, 2017 eligibility determination and plan enrollment 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.

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## Decision

Decision Date: October 13, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020753



## 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 was effective September 1, 2017?

## Procedural History

On June 30, 2016, NYSOH issued a plan enrollment notice confirming that your children were enrolled in CHP, effective August 1, 2016.

On June 3, 2017, NYSOH issued a notice that it was time to renew your children's health insurance for 2017. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your children's account between June 16, 2017 and July 15, 2017 or your children might lose the financial assistance they were currently receiving.

No updates were made to your account by July 15, 2017.

On July 17, 2016, NYSOH issued an eligibility determination notice stating that your children were not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your children also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your children's

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renewal within the required time frame. Your children's eligibility ended August 1, 2017.

Also on July 17, 2017, NYSOH issued a disenrollment notice stating that your children's CHP will end July 31, 2017. This was because your children were no longer eligible for coverage through NYSOH.

On July 21, 2017, NYSOH issued an eligibility determination notice, based on your children's July 20, 2017 updated application, stating that your children were eligible to enroll in a CHP plan with a \$9.00 monthly premium each, effective September 1, 2017.

Also on July 21, 2017, NYSOH issued a plan enrollment notice confirming that your children were enrolled in CHP, effective September 1, 2017.

Also on July 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan insofar as it did not begin August 1, 2017.

On October 4, 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) According to your NYSOH account, at all times relevant, received all of your notices from NYSOH by regular mail.
- 2) You testified that when you spoke to a NYSOH representative, they advised you that your notices were being sent via electronic mail. You requested that all your notices be sent via regular mail going forward.
- 3) Your spouse testified that you did not receive any notices telling you that you needed to update your application to renew your children's coverage.
- 4) According to your NYSOH account, a disenrollment notice was issued on July 17, 2017.
- 5) You testified that you realized your children were being disenrolled from their health plan when you received NYSOH's July 17, 2017 disenrollment notice in the mail. You contacted NYSOH immediately to re-enroll your children in health coverage.

- 6) According to your NYSOH account, on July 20, 2017, NYSOH received your children's updated application for health insurance.
- 7) You testified that you are seeking to have your children enrolled in their CHP plan as of August 1, 2017 to avoid a one month gap in coverage.

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," including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42

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CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in her Child Health Plus plan was effective September 1, 2017.

Your children were originally found eligible for Child Health Plus and enrolled effective August 1, 2016.

Generally, NYSOH must redetermine a qualified child's eligibility for CHP once every twelve months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH determined that your children's CHP coverage was due to end on July 31, 2017, and it issued a renewal notice dated June 3, 2017 stating that there was not enough information to determine whether your children were eligible to continue their financial assistance for health insurance. You were instructed by that notice to supply additional information between June 16, 2017 and July 15, 2017, or their financial assistance might end.

Because there was no timely response to this notice, your children were terminated from their CHP plan, effective July 31, 2017.

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You testified that you did not receive any notice from NYSOH telling you that you needed to update the information in your NYSOH account on your children's behalf.

According to your NYSOH account, at all times relevant, you elected to receive notifications via regular mail. Although you testified that you were advised by the NYSOH representative that you were receiving notices via email, that testimony conflicts with your statement that you received your children's disenrollment notice by regular mail. As such, your testimony regarding a NYSOH representative telling you that email notices were being sent to you, and not by regular mail, is not credible. Additionally, there is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. Therefore, NYSOH properly notified you of an inconsistency in your children's account and that you needed to update your children's account.

No updates were made to your NYSOH by the required deadline, which resulted in NYSOH issuing a disenrollment notice on July 17, 2017. The notice stated that your children's coverage in their CHP plan would end effective July 31, 2017 because they were no longer eligible to enroll in health insurance through NYSOH. This was because you did not renew your children's eligibility by the due date.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child.

In this case, the notice formally disenrolling your children from their CHP plan was dated July 17, 2016. You testified that you updated your children's account immediately after receiving that disenrollment notice. The record reflects that you updated their NYSOH account and submitted an updated application for your children on July 20, 2017.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's June 17, 2017 notice terminating your children's Child Health Plus eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until September 1, 2017. As such, you were not afforded enough notice to make the necessary changes to your account to avoid a gap in your children's Child Health Plus plan.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your children for the month of August 2017 such that the July 17, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

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).

## **Decision**

The July 17, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their CHP plan for the month of August 2017, and to notify you accordingly.

This Decision has no effect on any subsequent eligibility determinations or enrollments made or corresponding notices issued by NYSOH.

**Effective Date of this Decision:** October 13, 2017

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

Your children should not have been terminated from their CHP plan in August 2017 because NYSOH failed to issue proper notice.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the month of August 2017. NYSOH will notify you once this has been completed.

If applicable, you will be responsible for any premiums due for coverage to resume that month.

## **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:

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 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**

The July 17, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your children should not have been terminated from their CHP plan in August 2017 because NYSOH failed to issue proper notice.

Your case is **RETURNED** to NYSOH to reinstate your children into their CHP plan for the month of August 2017, and to notify you accordingly.

If applicable, you will be responsible for any premiums due for coverage to resume that 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).

This Decision has no effect on any subsequent eligibility determinations or enrollments made or corresponding notices issued by NYSOH.

## **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، يرجى 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&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.

### **אַײַדיש (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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