



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

## Notice of Decision

Decision Date: December 5, 2017

NY State of Health Account [REDACTED]  
Appeal Identification Number: AP000000022382



On November 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 2017 plan disenrollment 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).

This page intentionally left blank.



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

## Decision

Decision Date: December 5, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022382



## 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 June 18, 2017 plan disenrollment notice timely?

Did NY State of Health properly determine that your child's enrollment in her Child Health Plus plan ended effective July 1, 2017?

## Procedural History

On June 7, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On June 8, 2017, NYSOH issued an eligibility determination stating in part that your child was eligible to enroll in a full price Child Health Plus plan or a Child-Only qualified health plan for a limited time, effective July 1, 2017.

Also on June 8, 2017, NYSOH issued a plan enrollment notice confirming in part your child's enrollment in a full price Child Health Plus plan, effective July 1, 2017.

On June 16, 2017, NYSOH received your updated application for financial assistance with health insurance, which indicated that you and your child no longer needed health insurance through NYSOH.

On June 18, 2017, NYSOH issued a discontinuance notice stating in part that your child was no longer eligible for health insurance through NYSOH, effective August 1, 2017.

Also on June 18, 2017, NYSOH issued a plan disenrollment notice confirming in part your child's disenrollment from her Child Health Plus plan, effective July 1, 2017.

On September 13, 2017, you contacted NYSOH's Account Review Unit and appealed the date your child was disenrolled from her Child Health Plus plan, requesting their disenrollment be made effective July 31, 2017.

On November 29, 2017, you had a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. The record was developed during the hearing and the record was left open to allow for the Hearing Officer to listen to the available telephone recording from NYSOH's Call Center from June 16, 2017.

The Hearing Officer listened to the available telephone recording from June 16, 2017, after which the record was closed.

## **Findings of Fact**

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

- 1) You testified, and the record indicates, that on June 6, 2017 your child was found eligible for and enrolled in a full price Child Health Plus plan, effective July 1, 2017.
- 2) You testified that you contacted NYSOH on June 16, 2017 to disenroll yourself from your qualified health plan through NYSOH, but not to disenroll your child from her coverage.
- 3) You testified that you informed the NYSOH representative that you were only seeking to be disenrolled from your plan, and did not at any time request for your child to be disenrolled from her Child Health Plus plan.
- 4) You testified that you were not aware that the NYSOH representative was disenrolling your child from coverage.
- 5) You testified that your child's health insurance coverage outside of NYSOH did not become effective until August 1, 2017, and as a result you are seeking to have your child reenrolled into coverage for the month of July 2017.

- 6) NYSOH's Appeals Unit reviewed the recording of the telephone call you made to NYSOH on June 16, 2017, and determined that:
- a. You called NYSOH to seek disenrollment from your plan as of June 30, 2017.
  - b. During this telephone call, the NYSOH representative asked you multiple times if you wanted to disenroll everyone on your account; which included yourself, your spouse and your child and you answered "yes" every time.
  - c. When the NYSOH representative asked you why you and your child were disenrolling from coverage, you informed the NYSOH representative that you had health insurance coverage outside of NYSOH.
  - d. The NYSOH representative informed you that both your and your child's coverage ended as of June 30, 2017 before disconnecting the call.
  - e. At no time during this telephone call did you state that your child's coverage outside of NYSOH was starting as of August 1, 2017, or that you needed her to stay enrolled in her Child Health Plus plan until July 31, 2017.
- 7) The record indicates that you contacted NYSOH on August 28, 2017 to request that your child be reenrolled into coverage for the month of July 2017, and this request was denied on August 31, 2017. (See Incident [REDACTED])
- 8) You testified that you are seeking to have your child's Child Health Plus plan start as of July 1, 2017 and end as of July 31, 2017 because your child has unpaid medical bills from that month.

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

## **Applicable Law and Regulations**

### 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)).

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).

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)).

### Child Health Plus

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)).

### Child Health Plus Disenrollment Date

The State plan must include a description of the state’s policies governing enrollment and disenrollment (see 42 CFR § 457.305(b)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee’s request or effective on a future date if requested by the enrollee (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.2)).

If the enrollee gains access to a state health benefits plan or becomes enrolled in other health insurance, the enrollee shall be disenrolled effective the first day of the month following the date that the enrollee provides information regarding other insurance (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.3)).

## **Legal Analysis**

The initial issue under review is whether your appeal of NYSOH’s June 18, 2017 plan disenrollment notice was timely.

The record reflects that NYSOH issued a plan disenrollment notice on June 18, 2017 confirming in part that your child was disenrolled from her Child Health Plus plan as of July 1, 2017.

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

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).

For an appeal to have been valid on the issue of whether your child was properly disenrolled from her Child Health Plus plan, an appeal should have been filed on or around August 17, 2017. The record reflects that your appeal was filed on September 13, 2017, which is beyond the 60-day deadline.

However, the record reflects that you contacted NYSOH on August 28, 2017; which is only 10 days after the 60-day deadline to request your child be reenrolled into coverage for the month of July 2017. NYSOH reviewed your request, and the request was denied on August 31, 2017 (see Incident [REDACTED]

Therefore, it is reasonable to infer that you filed your appeal within a reasonably short time after learning that you had been denied retroactive enrollment for your child's Child Health Plus plan for the month of July 2017. Therefore, your appeal was timely filed.

The second issue under review is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan ended effective July 1, 2017.

Your child was enrolled in a Child Health Plus plan, effective July 1, 2017. On June 18, 2017, NYSOH issued a plan disenrollment notice stating that your child's Child Health Plus plan coverage ended as of July 1, 2017.

Enrollees may request disenrollment from their Child Health Plus plan at any time. If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date if requested by the enrollee.

You testified that on June 16, 2017, you contacted NYSOH and requested that your qualified health plan enrollment be terminated as of June 30, 2017. You further testified that at no time during the phone call did you indicate that you wanted your child to be disenrolled from her Child Health Plus plan. A review of the telephone record from June 16, 2017 indicates that the NYSOH representative asked you several times during the phone conversation if you were seeking to have everyone on your account disenrolled from coverage; which included you, your spouse and your child, and you answered "yes" every time. The NYSOH representative asked you why you and your child were disenrolling from coverage through NYSOH, to which you responded that you had health insurance coverage outside of NYSOH. Prior to ending the call, the NYSOH representative confirmed both your and your child's disenrollment from your health insurance coverage through NYSOH. It is also noted that at no time during this call did you protest the fact that your child was disenrolled from coverage, nor did you state that you would like her Child Health Plus plan to end as of July 31, 2017.

As such, the credible evidence of record indicates that you contacted NYSOH on June 16, 2017 to request that your child be disenrolled from her Child Health Plus plan. Therefore, your child's eligibility for her Child Health Plus plan coverage should have ended the first day of the month following the June 16, 2017 request, which would be July 1, 2017.

The June 18, 2017 plan disenrollment notice stating that your child's Child Health Plus plan would end as of July 1, 2017 is correct, and must be AFFIRMED.

## **Decision**

The June 18, 2017 plan disenrollment notice is AFFIRMED.

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

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

This decision does not change your child's Child Health Plus plan disenrollment date.

Your children's enrollment in her Child Health Plus plan properly ended on July 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:

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 June 18, 2017 plan disenrollment notice is AFFIRMED.

This decision does not change your child's Child Health Plus plan disenrollment date.

Your children's enrollment in her Child Health Plus plan properly ended on July 1, 2017.

### **Legal Authority**

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:**



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).

## 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)

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).

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.

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 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).