



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

**Notice of Decision**

Decision Date: January 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022472

[REDACTED]

On December 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s July 5, 2017 notice of disenrollment and the July 11, 2017 notice of enrollment confirmation.

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: January 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022472



## Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review whether your children's enrollment in their Child Health Plus plan was properly ended due to non-payment of premium, effective June 30, 2017?

Did NYSOH properly determine that your children's re-enrollment in their Child Health Plus plan was effective no earlier than August 1, 2017?

## Procedural History

On May 25, 2016, NYSOH issued an eligibility determination notice stating your children were eligible for Child Health Plus(CHP) with a \$30.00 monthly premium each, effective July 1, 2016. They were enrolled in a CHP plan with a combined \$90.00 monthly premium payment.

On March 31, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your family.

On April 1, 2017, NYSOH issued an eligibility determination stating your children were eligible for Child Health Plus with a monthly premium of \$15.00 each, effective May 1, 2017.

Also on April 1, 2017, NYSOH issued an enrollment notice confirming your children were enrolled in a CHP plan with a combined \$45.00 monthly premium, effective May 1, 2017.

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On July 5, 2017, NYSOH issued a disenrollment notice stating your children's CHP coverage was terminated, effective June 30, 2017, because you did not pay the insurance bill by the payment deadline.

On July 10, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your children.

On July 11, 2017, NYSOH issued an eligibility determination stating your children were eligible for CHP with a \$15.00 monthly premium each, effective August 1, 2017.

Also on July 11, 2017, NYSOH issued an enrollment notice, based on your July 10, 2017 plan selection, confirming your children were enrolled in a CHP plan, effective August 1, 2017.

On September 15, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your children did not have coverage for July 2017.

On December 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to December 20, 2017 to allow you to submit supporting documentation.

As of December 20, 2017, no documentation had been received by the Appeals Unit and no such documentation was viewable in your NYSOH account. Therefore, the record closed the same day and this decision is based on the record as develop at the time of the hearing.

## **Findings of Fact**

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

- 1) Your children were enrolled in a CHP plan in 2016 with a combined monthly premium of \$90.00.
- 2) On March 31, 2017, you submitted an updated application to renew your own health coverage. Your children were determined eligible for CHP with a reduced monthly premium of \$15.00 each, \$45.00 combined, effective May 1, 2017.
- 3) You testified that you renewed your coverage over the phone with a representative from your health plan. You testified that you made a premium payment over the phone to the health plan the same day for your children's coverage for the new lower premium amount.

- 4) You testified that the representative from the health plan advised you that there were no premiums due for your children's coverage until July 2017.
- 5) You testified you attempted to make your children's July premium payment online at the end of June, but you were not able to.
- 6) You testified that you believed you had until July 31, 2017 to pay your children's July 2017 premium payment.
- 7) You testified you took your child to the doctor for [REDACTED] and learned your children did not have coverage.
- 8) You testified you contacted the health plan on July 11, 2017 to try and make a payment and you were advised the children had been disenrolled and would need to reapply.
- 9) According to your account, the health plan initiated termination of your children's CHP coverage on July 4, 2017 for non-payment of the premium.
- 10) Your children's CHP coverage ended June 30, 2017.
- 11) On July 10, 2017, NYSOH received an updated application submitted on behalf of your children. They were determined CHP eligible, effective August 1, 2017.
- 12) A new CHP enrollment was submitted on behalf of your children on July 10, 2017. Coverage through the subsequent enrollment became effective August 1, 2017.
- 13) Your children were without health coverage for the month of July 2017.
- 14) You testified you have an outstanding medical bill for one of your children from the month of July 2017.

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

## **Applicable Law and Regulations**

### 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

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cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### 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 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 the Appeals Unit of NYSOH has the authority to review whether your children’s enrollment in their Child Health Plus plan was properly ended due to non-payment of premium, effective June 30, 2017.

Pursuant to the regulations, the Appeals Unit of NYSOH 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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for 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 your children's coverage was properly terminated for non-payment of premiums. Therefore, your appeal of the July 5, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

It is noted that you were provided with the opportunity to submit documentation corroborating your testimony that you made all your children's monthly premium payments required and that the July 2017 premium payment was not due until July 31, 2017. However, you failed to submit any documentation. Thus, the Appeals Unit is without sufficient evidence to refer your case to the Department of Health to investigate your children's disenrollment for non-payment.

The second issue is whether NYSOH properly determined that your children's re-enrollment in their Child Health Plus plan was effective no earlier than August 1, 2017.

Your account confirms, that you first contacted NYSOH to reenroll your children in a Child Health Plus plan on July 10, 2017. Their coverage through that subsequent enrollment did not become effective until August 1, 2017. You appealed the effective date of that enrollment insofar as your children did not have coverage for the month of July 2017.

According 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.

Since you selected a health plan for your children on July 10, 2017, prior to the 15<sup>th</sup> day of the month, that plan properly became effective the first day of the following month; that is, on August 1, 2017.

Therefore, the July 11, 2017 enrollment confirmation notice stating your children's enrollment in their Child Health Plus plan was effective August 1, 2017, is correct and is **AFFIRMED**.

## **Decision**

Your appeal on the issue of disenrollment for non-payment of premium as described in the July 5, 2017 disenrollment notice is **DISMISSED**.

The July 11, 2017 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** January 9, 2018

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

This decision does not change your children's eligibility.

Your children's CHP coverage ended June 30, 2017.

Your children's subsequent CHP enrollment became effective August 1, 2017.

### **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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

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).



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 on the issue of disenrollment for non-payment of premium as described in the July 5, 2017 disenrollment notice is **DISMISSED**.

The July 11, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

Your children's CHP coverage ended June 30, 2017.

Your children's subsequent CHP enrollment became effective August 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)**

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।

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## **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 srɛ wo, frɛ 1-855-355-5777. ye&ɛtumi 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.