



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

**Notice of Decision**

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023287

[REDACTED]

Dear [REDACTED],

On December 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s October 6, 2017 and October 11, 2017 eligibility determination notices and the October 11, 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 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.

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## Decision

Decision Date: January 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023287



## Issues

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

Did the NY State of Health (NYSOH) properly determine your oldest child was not eligible for Child Health Plus (CHP), effective November 1, 2017?

Did NYSOH properly determine your children's' enrollments in their health plans were effective no earlier than November 1, 2017?

## Procedural History

On October 5, 2017, NYSOH received an updated application for financial assistance with health insurance indicating you were requesting coverage for your three children.

On October 6, 2017, NYSOH issued an eligibility determination notice stating your oldest child was eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective November 1, 2017. The notice indicated that your youngest two children were eligible to enroll in a full cost qualified health plan, but ineligible for financial assistance, because record showed they were already enrolled in coverage outside NYSOH.

Also on October 6, 2017, NYSOH issued an enrollment notice, based on your October 5, 2017 plan selection, confirming your oldest child was enrolled in an Essential Plan, effective November 1, 2017.

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On October 11, 2017, NYSOH issued an eligibility determination notice, based on your October 10, 2017 updated application, stating your two youngest children were eligible for CHP with no monthly premium, effective November 1, 2017.

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

Additionally, on October 11, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as all three of your children were not eligible for CHP coverage beginning October 1, 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 closed at the end of the hearing.

## **Findings of Fact**

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

- 1) According to your account, the first application received by NYSOH requesting coverage for your children was on October 5, 2017. Prior applications for coverage for you and your spouse indicated your children were not applying for coverage through NYSOH.
- 2) Your oldest child was determined eligible for the Essential Plan with a \$20.00 monthly premium and a plan was selected for him on October 5, 2017 with coverage through that plan effective November 1, 2017.
- 3) You testified you are seeking review of that eligibility determination, because you believe your oldest child should still be eligible for CHP.
- 4) According to your account, NYSOH determined your youngest two children were not eligible for financial assistance at that time, because data sources they were actively enrolled in CHP outside NYSOH.
- 5) On October 10, 2017, NYSOH received an updated application submitted on behalf of your children. Subsequently, NYSOH determined your two youngest children eligible for CHP with no monthly premium.
- 6) A CHP plan was selected on behalf of your two youngest children on October 10, 2017 and coverage through that plan became effective on November 1, 2017.

- 7) You testified you are appealing the effective dates of all three of your children's coverage through NYSOH.
- 8) You testified that all three of your children have been enrolled in CHP since birth. You were not sure whether that coverage was through your local department of social services (LDSS).
- 9) There is no record of your children being enrolled in coverage through NYSOH prior to November 1, 2017.
- 10) NYS record show your children were previously enrolled in CHP through your LDSS.
- 11) You testified that you renewed your children's CHP coverage in June or July of 2017 and they were later disenrolled without notice.
- 12) You testified that you suspect all three of your children were disenrolled, because your oldest child turned [REDACTED].
- 13) You testified you believe your oldest child should be CHP eligible until he is 26.
- 14) You testified you think your children's prior CHP coverage ended on September 30, 2017.
- 15) You testified that your children do not have outstanding medical bills from the month of October 2017.
- 16) According to your account, your oldest child turned [REDACTED] on [REDACTED] [REDACTED]. Your youngest two children were [REDACTED] at all relevant times.

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

## **Applicable Law and Regulations**

### Child Health Plus - Eligibility

Child Health Plus is a sliding-scale-premium program for eligible children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa).

Since January 1, 1997, "eligible children" or "eligible child" has been defined as a person under the age of 19 (NY PHL § 2510(4)).

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### Child Health Plus – Effective dates

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 PHL § 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).

### Essential Plan – Effective dates

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York’s Basic Health Plan Blueprint, p. 16, as approved January 2016; see [www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf](http://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf)).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); see also 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## Legal Analysis

The first issue is whether NYSOH properly determined your oldest child was not eligible for CHP, effective November 1, 2017.

According to your account, the first application received by NYSOH requesting coverage for your oldest child was on October 5, 2017. NYS records confirm your child was previously enrolled in CHP coverage through your LDSS. On October 6, 2017 and October 11, 2017, NYSOH issued eligibility determination notices stating your oldest child was eligible to enroll in the Essential Plan, November 1, 2017. You testified you are seeking review of those determinations insofar as your oldest child was not eligible for CHP.

Pursuant to the above cited regulations, to be eligible to enroll in Child Health Plus, an enrollee must be under the age of 19.

Since the evidence establishes that your oldest child [REDACTED] on [REDACTED] [REDACTED] your child was not eligible for CHP on November 1, 2017.

Therefore, the October 6, 2017 and October 11, 2017 eligibility determinations to the extent they found your oldest child ineligible for CHP, effective November 1, 2017 were correct and are AFFIRMED.

The second issue is whether NYSOH properly determined your children's enrollments in their health plans were effective no earlier than November 1, 2017.

As discussed above, the first application received by NYSOH requesting coverage through NYSOH for your children was on October 5, 2017. Subsequently, your account confirms that an Essential Plan was selected for your oldest child on October 5, 2017 and a CHP plan was selected on behalf of your two youngest children on October 10, 2017. Coverage through those plans became effective on November 1, 2017. You appealed insofar as your children's coverage through NYSOH did not begin October 1, 2017.

Pursuant to the above cited regulations, the date on which a Child Health Plus plan or an Essential Plan can take effect depends on the day a person selects the plan for enrollment. Plans selected between the first day and fifteenth day of a month go into effect on the first day of the following month. Plans selected from the sixteenth day of the month and the end of the month go into effect on the first day of the second following month.

Since the evidence establishes that you selected health plans on behalf of all three of your children between the first day and fifteenth day of October 2017, coverage through those plans properly became effective on the first day of the following month; that is, on November 1, 2017.

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Accordingly, the October 11, 2017 enrollment notice stating your oldest child was enrolled in an Essential Plan and your youngest two children were enrolled in a CHP plan, all effective November 1, 2017, was correct and is AFFIRMED.

It is noted that you testified that you renewed your three children's CHP coverage in June or July 2017 and it was subsequently terminated without notice. However, since NYS records confirm that your children were previously enrolled in CHP coverage through your LDSS, the NYSOH Appeals Unit is without jurisdiction to review any action or inaction on the part of your LDSS. Thus, this decision will not address whether you were provided with adequate notice that your children's coverage was ending. It is further noted that you may have "fair hearing" rights regarding your contention that you did not receive adequate notice from your LDSS that your children's coverage was ending. However, you would have to contact the NYS Office of Temporary and Disability Assistance for information regarding requesting a fair hearing.

## **Decision**

The October 6, 2017 and October 11, 2017 eligibility determinations to the extent they found your oldest child ineligible for CHP, effective November 1, 2017, were correct and are AFFIRMED.

The October 11, 2017 enrollment notice is AFFIRMED.

**Effective Date of this Decision:** January 25, 2018

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

Your oldest child was not eligible for CHP, effective November 1, 2017.

Coverage, through NYSOH, for all three of your children became effective on November 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

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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 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):**

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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- By fax: 1-855-900-5557

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## **Summary**

The October 6, 2017 and October 11, 2017 eligibility determinations to the extent they found your oldest child ineligible for CHP, effective November 1, 2017 were correct and are AFFIRMED.

The October 11, 2017 enrollment notice is AFFIRMED.

Your oldest child was not eligible for CHP, effective November 1, 2017.

Coverage, through NYSOH, for all three of your children became effective on November 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 مجاناً.

### 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.

## **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.

## **אידיש (Yiddish)**

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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