



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

## Notice of Decision

Decision Date: January 5, 2018

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000023504

[REDACTED]

Dear [REDACTED],

On December 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 17, 2017 discontinuance notice, October 18, 2017 disenrollment notice, and October 20, 2017 eligibility determination and enrollment confirmation 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulation (CFR) § 155.545.

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## Decision

Decision Date: January 5, 2018

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000023504

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your child's eligibility for and enrollment in her Child Health Plus (CHP) plan ended, effective October 31, 2017?

Did NYSOH properly determine that your child was not eligible to enroll in CHP, as of your October 19, 2017 application?

Did NYSOH properly determine that your child's eligibility for, and enrollment in, her qualified health plan (QHP) began on December 1, 2017?

## Procedural History

On September 22, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible for CHP with a \$30.00 monthly premium, effective November 1, 2016. Your child was subsequently enrolled into a CHP plan.

On September 3, 2017, NYSOH issued a notice stating that it was time to renew your child's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether your child would qualify for financial help paying for her health coverage, and that you needed to update your account by October 15, 2017, or your child might lose the financial assistance she was currently receiving.

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

On October 17, 2017, NYSOH issued a discontinuance notice stating that your child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a QHP at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your child's eligibility ended effective October 31, 2017.

On October 18, 2017, NYSOH issued a disenrollment notice stating that your child was disenrolled from her CHP plan, effective October 31, 2017.

On October 19, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible to enroll in a QHP at full cost through NYSOH, effective December 1, 2017. Additionally, you selected a QHP for enrollment on behalf of your child.

Also on October 19, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination, insofar as your child's eligibility and enrollment did not begin on November 1, 2017. You also requested Aid to Continue, pending the outcome of your appeal.

On October 20, 2017, NYSOH issued a notice of eligibility determination, stating that your child was eligible to purchase a full cost QHP through NYSOH, effective December 1, 2017. The notice also stated that your child was not eligible for Medicaid because your household income was above the allowable household income limit. Additionally, she was not eligible to enroll in CHP because she was currently enrolled in, or had access to, coverage through the NY State Health Insurance Program (NYSHIP). Finally, the notice stated that your child was not eligible for receive a tax credit or to enroll in the Essential Plan because she was enrolled in, or eligible to enroll in, employer-sponsored health insurance that was affordable and meets minimum value.

Also on October 20, 2017, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a child-only bronze level QHP with a monthly premium of \$161.50, beginning December 1, 2017.

On October 27, 2017, NYSOH issued a notice stating that your child was eligible to enroll in CHP for a limited time, effective November 1, 2017. This was because your Aid to Continue request was granted until a decision is made on your appeal.

That same day, NYSOH issued an enrollment confirmation notice, confirming your child's enrollment in her CHP plan, beginning November 1, 2017. This was also pursuant to your request for Aid to Continue.

On December 21, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, the issue under appeal was amended to reflect that you are also appealing NYSOH's determination that your child is not eligible for CHP. 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) Your NYSOH account reflects that your child was enrolled in a CHP plan beginning November 1, 2016.
- 2) You testified, and the record reflects, that you receive email alerts regarding notices issued in your NYSOH account.
- 3) You testified that, when you receive an email from NYSOH, it tells you that you have a document to review and directs you to log into your NYSOH account to view that document.
- 4) You testified that you recall receiving a notice in September 2017 stating that you needed to renew your child's coverage, but that you remember thinking that you had plenty of time to renew.
- 5) You testified that you were also confused because, when you applied for coverage for your child, you remember selecting a five-year renewal, and so you thought this would mean her coverage would be renewed.
- 6) You testified that the email address on file with NYSOH is [REDACTED] and your NYSOH account confirms this.
- 7) You testified that you realize you may have made an error in missing the renewal deadline, but that you do not think this should cost your child her health insurance.
- 8) You testified that you realized your child's coverage was ending when you received an email on October 19, 2017, and saw the notice in your account stating that your child's coverage was ending on October 31, 2017.
- 9) Your NYSOH account reflects that a disenrollment notice was issued on October 18, 2017, stating that your child's coverage was ending on October 31, 2017.

- 10) You testified that you updated your application on October 19, 2017, and your NYSOH account reflects this.
- 11) You testified that, when you saw that your child was going to be eligible for a full cost QHP, you called NYSOH.
- 12) You testified that the person you spoke with at NYSOH told you that your child was not eligible for CHP because you completed your renewal late.
- 13) You testified you work for [REDACTED] and your child is eligible for NYSHIP, and your NYSOH account confirms this.
- 14) You testified that coverage for your child would cost \$400.00 a month through NYSHIP, and that this is not affordable for you.
- 15) You testified that you began working for [REDACTED] approximately two years ago.
- 16) You testified that you enrolled your child in a full cost QHP for January 1, 2018, and your NYSOH account confirms this.
- 17) You testified that you only did this because you do not want your child to be without coverage, but that you are looking for your child to be CHP eligible.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)).

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NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

### Child Health Plus

CHP is a sliding-scale-premium program for 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). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP 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 PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

Children who have access to a state health benefits plan such as NYSHIP are not eligible to enroll in CHP (State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### Redetermination During a Benefit Year

When a redetermination is issued as a result of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

### Enrollment in a Qualified Health Plan

The effective date of coverage by a QHP 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

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fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). 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 under review is whether NYSOH properly determined that your child's enrollment in her CHP plan ended, effective October 31, 2017.

Your child was originally found eligible for CHP, effective November 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's September 3, 2017 renewal notice stated that there was not enough information to determine whether your child was eligible to continue her financial assistance for health insurance, and that you needed to supply additional information by October 15, 2017, or her financial assistance might end.

Because there was no timely response to this notice, your child was terminated from her CHP plan, effective October 31, 2017.

You testified that you receive email alerts regarding notices issued in your NYSOH account. You testified that you recall receiving a notice in September 2017 telling you that you need to renew your child's coverage, but that you remember thinking that you had plenty of time to do so. You also testified that you thought that, because you had selected to have your child's coverage renewed for a five-year period, this would mean her coverage would be renewed automatically.

As NYSOH issued a renewal notice, and you acknowledge receipt of that notice, the record reflects that NYSOH properly notified you of your child's annual renewal and that information in your NYSOH account needed to be updated to ensure your child's enrollment in her CHP plan and eligibility for financial assistance would continue.

Since there was no response to the renewal notice by the October 15, 2017 deadline, NYSOH properly discontinued your child's CHP coverage, effective October 31, 2017, and the October 17, 2017 discontinuance notice, and October 18, 2017 disenrollment notice, are AFFIRMED.



The second issue under review is whether NYSOH properly determined that your child was not eligible to enroll in CHP coverage, as of your October 19, 2017 application.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL.

One of the non-financial eligibility requirements is that the child must not have access to a state health benefits plan such as NYSHIP. Children who have access to NYSHIP coverage are not eligible to enroll in CHP.

You testified that you work for [REDACTED] and that you have access to NYSHIP. However, you testified that the cost of coverage for your child is not affordable, as it would cost \$400.00 per month to insure your child through NYSHIP.

Nevertheless, affordability is not a relevant factor in this analysis, as your child's access to NYSHIP coverage prevents her from being found eligible for CHP, pursuant to NY State rules. Therefore, the NYSOH Appeals Unit is constrained to find that NYSOH's determination that your child was not eligible for CHP was correct.

Since the October 20, 2017 eligibility determination properly stated that, based on the information you provided, your child was not eligible to enroll in CHP coverage, it was correct and is AFFIRMED.

The third issue under review is whether NYSOH properly determine that your child's enrollment in a QHP was effective no earlier than December 1, 2017.

The record shows that on October 19, 2017, you updated the information in your NYSOH account and submitted a request to enroll in a QHP on behalf of your child. On October 20, 2017, NYSOH issued an enrollment confirmation notice stating that your child's enrollment in her QHP would begin December 1, 2017.

When an individual changes information in their application after the 15th of any month, NYSOH will make the redetermination that results from the change effective the first day of the second following month. Additionally, the date on which enrollment in a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is after the fifteenth day of a month goes into effect on the first day of the second following month.

Therefore, NYSOH's October 20, 2017 enrollment confirmation notice is AFFIRMED because it properly began your child's enrollment in a QHP on December 1, 2017.

## **Decision**

The October 17, 2017 discontinuance notice is AFFIRMED.

The October 18, 2017 disenrollment notice is AFFIRMED.

The October 20, 2017 eligibility determination notice is AFFIRMED.

The October 20, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** January 5, 2018

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

Your child was properly disenrolled from her CHP coverage, effective October 31, 2017, because you did not timely respond to the September 3, 2017 renewal notice.

Your child is not eligible for CHP because she has access to NYSHIP coverage.

Your child's eligibility to enroll in a full cost QHP began on December 1, 2017.

Your child's enrollment in a full cost QHP would have properly started on December 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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The October 17, 2017 discontinuance notice is AFFIRMED.

The October 18, 2017 disenrollment notice is AFFIRMED.

The October 20, 2017 eligibility determination notice is AFFIRMED.

The October 20, 2017 enrollment confirmation notice is AFFIRMED.

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Your child was properly disenrolled from her CHP coverage, effective October 31, 2017, because you did not timely respond to the September 3, 2017 renewal notice.

Your child is not eligible for CHP because she has access to NYSHIP coverage.

Your child's eligibility to enroll in a full cost QHP began on December 1, 2017.

Your child's enrollment in a full cost QHP would have properly started on December 1, 2017.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 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.

## **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&etumi ama wo obi a okyerε 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.