



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

**Notice of Decision**

Decision Date: January 11, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023814

[REDACTED]

[REDACTED]

On December 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health’s October 25, 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 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.

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 11, 2018

NY State of Health Account ID: [REDACTED]  
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## Issues

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

Did NY State of Health properly terminate your child from his Child Health Plus plan, effective August 1, 2017, due to non-payment of premiums?

Did NY State of Health properly determine that your child's eligibility for and enrollment in his Child Health Plus plan was next effective December 1, 2017?

## Procedural History

On September 19, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based upon your child's initial September 18, 2017 application, stating that your child was eligible to enroll in Child Health Plus (CHP) for a limited time, effective August 1, 2017.

On September 19, 2017, a plan enrollment notice was issued confirming your child's enrollment in a CHP plan with a monthly premium of \$15.00, effective August 1, 2017. That notice stated you must pay the monthly premium to start and keep his coverage.

On October 3, 2017, NYSOH issued a disenrollment notice confirming that your child's coverage in his CHP plan terminated effective August 1, 2017. This was because a premium payment had not been received by his health plan.

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On October 25, 2017, a plan enrollment notice was issued, based on your October 24, 2017 updated application, confirming your child's enrollment in a CHP plan with a monthly premium of \$15.00, effective December 1, 2017.

On October 30, 2017, you spoke to NYSOH's Account Review Unit and requested that your child's CHP plan be backdated to August 1, 2017.

On December 21, 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 January 5, 2018, to allow you time to submit supporting documentation.

On January 4, 2018, you submitted a copy of two of your child's premium invoices, a cancelled check, a receipt, a letter from MVP, dated November 17, 2017, and a letter from the New York State Department of Financial Services (NYSDFS), dated November 20, 2017. These documents were made part of the record as "Appellant's Exhibit A" and the record closed that day.

## **Findings of Fact**

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

- 1) According to your NYSOH account, your child's enrollment in his CHP plan was backdated to the first day of the month of the date of his birth; that is, as of August 1, 2017.
- 2) You testified that you were only given five days to make a premium payment on your child's account.
- 3) You testified that you did pay your child's CHP premium for August 2017, but that because you were required to make that payment by mail, the health plan received it late. You further testified that you did not call the health plan to pay the premium by telephone or attempt to pay the premium on-line because you were not allowed to make the initial payment by those methods.
- 4) Your child's coverage in his CHP plan ended effective August 1, 2017, because a premium payment had not been received by his health plan by the payment deadline.
- 5) You updated your child's account on October 24, 2017, and re-enrolled him into a CHP plan with an effective date of December 1, 2017.
- 6) You testified that you called the health plan and they denied your payment to reinstate your child's coverage as of August 1, 2017, and advised you to contact NYSOH.

- 7) You testified that you feel that you did not receive proper notice of your child's disenrollment from his CHP plan. You further testified that, had you been notified earlier, you could have mitigated the damages and re-enrolled your child into a health plan earlier.
- 8) On January 4, 2018, you submitted a check and an invoice that shows you paid by check, dated October 5, 2017, the amount of \$15.00 to MVP for an invoice [REDACTED] which was dated September 19, 2017, and that the payment was to be applied to your child's August 2017 premium. The documentation further shows that this check was cashed by MVP on October 11, 2017 (see Appellant's Exhibit A, [REDACTED]).
- 9) You also submitted a letter from MVP, dated November 17, 2017, which states that as of November 17, 2017, "MVP's Eligibility and Enrollment Department has advised that [your child's] effective date has been updated to reflect his date of birth [REDACTED]." That same letter indicates that an MVP customer representative will contact you to cover premiums for October 2017 and November 2017 (see Appellant's Exhibit A, [REDACTED]).
- 10) You submitted documents also show that, on January 4, 2018, you made a payment in the amount of \$45.00 to your child's health plan for January 2018, and two months of your child's past due premiums (see Appellant's Exhibit A, [REDACTED]).
- 11) You further submitted a letter from the NYSDFS, dated November 20, 2017, which states that your child's CHP "coverage has been reinstated effective [REDACTED] [his date of birth]" by the health plan. The letter further states that there is "nothing in the law that would require the company to do so."
- 12) You testified that you wanted your child's enrollment in a CHP plan to begin on August 1, 2017 because you have outstanding medical bills.

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 the Appeals Unit of NYSOH: (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

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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, and (4) a failure by NYSOH to provide timely notice of an eligibility determination (45 CFR § 155.505).

### Child Health Plus Effective Date

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)).

The State of New York has provided that a children’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 first issue under review is whether NYSOH properly terminated your child from her CHP plan, effective August 1, 2017, due to non-payment of premiums.

The record indicates your child was enrolled in a CHP Plan with a monthly premium of \$15.00, effective August 1, 2017, as stated in the September 19, 2017 plan enrollment notice issued by NYSOH. That notice also stated you must pay the monthly premium to start and keep his coverage.

Your submitted documentation and your testimony reflects that you did pay your child’s CHP premium for August 2017, but that because you were required to make that payment by mail, the health plan received it late. Further, you testified that when you contacted the health plan they denied your child’s reinstatement in her CHP plan and advised you to contact NYSOH.

The New York State of Health Appeals Unit 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) an

eligibility determination for an exemption, and (4) a failure by the Exchange to provide timely notice of an eligibility determination.

Since the Appeals Unit is not given the authority to review start date issues due to non-payment of premiums, we cannot reach the merits as to whether your child was properly terminated from his CHP plan for non-payment of premiums.

Therefore, your appeal of your child's CHP Plan termination date is DISMISSED as a non-appealable issue.

The second issue under review is whether NYSOH properly determined that your child's enrollment in his CHP Plan was effective December 1, 2017.

According to your NYSOH account, you updated your child's eligibility for financial assistance through NYSOH on October 24, 2017, and selected and enrolled him into a CHP plan that same day with a December 1, 2017 start date.

The date on which a CHP 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 between 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 CHP plan for your child on October 24, 2017, it must take effect on the first day of the second month following October 2017; that is, on December 1, 2017.

Therefore, NYSOH's October 25, 2017 eligibility determination and plan enrollment notices are AFFIRMED because they properly began your child's eligibility for and enrollment in CHP on December 1, 2017.

Lastly, the documentation submitted appears to have addressed if not resolved your issue with the start date of your child's Child Health Plus plan, at least in part. Please note that Appeals Unit has no jurisdiction over issues that are contractual in nature between you and the health plan. To the extent that your child's coverage may have been reinstated by the health plan as of [REDACTED], your case is RETURNED to Plan Management to investigate the matter with your child's health plan and/or DFS and, if applicable, update your NYSOH account to conform with this backdate.

If you have further concerns, you may contact your health plan directly regarding this matter or for other health care coverage questions. To file another complaint against the insurance company, you can contact the Consumer Assistance Unit at the NYS Department of Financial Services at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>.

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**

Your appeal of the August 1, 2017 termination date of your child's coverage in his CHP plan is **DISMISSED** as a non-appealable issue.

The October 25, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**.

Your case is **RETURNED** to Plan Management to investigate the matter of your child's health insurance coverage being backdated to [REDACTED], with your child's health plan and/or DFS and, if applicable, update your NYSOH account to conform with this backdate. You will be notified accordingly.

**Effective Date of this Decision:** January 11, 2018

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

This decision does not change your child's eligibility.

Your child's coverage in his CHP plan ended August 1, 2017 for non-payment of premiums.

The effective date of your child's eligibility for and enrollment in his CHP plan remains December 1, 2017.

Your case is being sent to Plan Management to see if coverage was backdated by your child's health plan to [REDACTED], as stated in the documents you submitted and, if applicable, to conform your NYSOH account accordingly.

## **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

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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):**

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 of the August 1, 2017 termination date of your child's coverage in his CHP plan is **DISMISSED** as a non-appealable issue.

The October 25, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**.

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).

Your case is RETURNED to Plan Management to investigate the matter of your child's health insurance coverage being backdated to [REDACTED] with your child's health plan and/or DFS and, if applicable, update your NYSOH account to conform with this backdate. You will be notified accordingly.

This decision does not change your child's eligibility.

Your child's coverage in his CHP plan ended August 1, 2017 for non-payment of premiums.

The effective date of your child's eligibility for and enrollment in his CHP plan is December 1, 2017.

Your case is being sent to Plan Management to see if coverage was backdated by your child's health plan to [REDACTED] as stated in the documents you submitted and, if applicable, to conform your NYSOH account accordingly.

## **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.

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## **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।

## **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.

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**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.