



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

## Notice of Decision

Decision Date: January 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022888 and AP000000024065

[REDACTED]

[REDACTED]

On January 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's June 10, 2017 eligibility determination and disenrollment notices, November 5, 2017 disenrollment notice, and November 7, 2017 plan enrollment 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.

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 10, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022888 and AP000000024065

[REDACTED]

## Issues

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

Did you timely request an appeal of NY State of Health's (NYSOH) June 10, 2017 eligibility determination and disenrollment notice?

Did NYSOH properly disenroll your youngest child from her Child Health Plus plan for non-payment of premium, effective October 31, 2017?

Did NYSOH properly determine your child's Child Health Plus plan started effective December 1, 2017?

## Procedural History

On December 14, 2016, NYSOH issued an eligibility determination notice stating your oldest child was eligible for advance payments of the premium tax credit up to \$643.00 per month as shared with you and your husband, effective January 1, 2017. Your youngest child was determined eligible for Child Health Plus for a cost of \$45.00 per month, effective January 1, 2017.

On December 18, 2016, NYSOH issued a plan enrollment notice confirming in part your oldest child's enrollment in a gold-level qualified health plan, effective January 1, 2017; and your youngest child's enrollment in a Child Health Plus plan, effective January 1, 2017.

On March 6, 2017, NYSOH received your children's updated application for financial assistance.

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).

On March 7, 2017, NYSOH issued an eligibility determination notice stating your oldest child was eligible for advance payments for a premium tax credit up to \$130.00 per month for a limited time, effective April 1, 2017. The notice directed you to provide proof of your oldest daughter's income by June 4, 2017.

On March 7, 2017, NYSOH issued a plan enrollment notice confirming your oldest child's enrollment in a gold-level qualified health plan for a cost of \$1,987.40 per month, effective January 1, 2017.

No documentation regarding your oldest child's income was received by the deadline of June 4, 2017.

On June 9, 2017, your oldest child's eligibility was redetermined.

On June 10, 2017, NYSOH issued an eligibility determination notice stating your oldest child was newly eligible to purchase a qualified health plan at full cost, effective July 1, 2017, because NYSOH did not receive the income documentation needed by the deadline to verify the income listed in the application.

On June 10, 2017, NYSOH issued a disenrollment notice ending your oldest child's coverage in her gold-level qualified health plan, effective June 30, 2017.

On September 28, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your oldest child's eligibility and enrollment in a qualified health plan effective, June 30, 2017. An appeal was filed as AP000000022888.

On October 6, 2017, NYSOH issued an eligibility determination notice stating your oldest child was eligible for advance payments of the premium tax credit up to \$246.00 per month, effective November 1, 2017. Your youngest daughter was eligible for Child Health Plus for a cost of \$30.00 per month, November 1, 2017.

On October 6, 2017, NYSOH issued a plan enrollment notice confirming your oldest daughter's enrollment in a Gold level qualified health plan, effective January 1, 2017.

On November 5, 2017, NYSOH issued a disenrollment notice terminating your youngest child's Child Health Plus plan, effective October 31, 2017, because you did not pay your insurance bill by the payment deadline.

On November 6, 2017, you enrolled your youngest child in a Child Health Plus plan with start date of December 1, 2017.

On November 6, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan, requesting a backdate to November 1, 2017. An appeal was filed as AP000000024065.

On November 7, 2017, NYSOH issued a plan enrollment notice confirming your youngest child's enrollment on November 6, 2017, in a Child Health Plus plan at \$30.00 per month, effective December 1, 2017.

A telephone hearing was scheduled for AP000000022888 on November 16, 2017. A Hearing Officer from NYSOH's Appeals Unit contacted you but was unable to reach you. Your appeal was dismissed and a dismissal notice was issued to your address on file.

On December 18, 2017, NYSOH received your letter to vacate your dismissal notice of AP000000022888 ( [REDACTED] ).

On December 20, 2017, NYSOH Appeals Unit approved your request to vacate your dismissal. A new hearing date and time was scheduled to coincide with your additional appeal request for AP000000024065 for January 2, 2018.

On January 2, 2018, 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 supports the following findings of fact:

- 1) According to your NYSOH account and testimony, you receive all notices from NYSOH by regular mail.
- 2) You testified that you did not receive any notices stating that your oldest child's eligibility was only conditional and that you needed to provide documentation of her household's income.
- 3) According to your NYSOH account, you submitted an updated application after contacting NYSOH on March 6, 2017. The new application stated your oldest child would be her own tax household for 2017, and that she anticipated an annual household income of \$40,000.00. You testified you do not recall making these changes to your application.
- 4) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.

- 5) Your NYSOH account indicates that on June 9, 2017 your oldest child's application was run and she was found no longer eligible for APTC as of July 1, 2017.
- 6) Your oldest child was disenrolled from her qualified health plan effective June 30, 2017.
- 7) You testified that you are seeking reinstatement of your child's APTC and enrollment in a qualified health plan as of July 1, 2017.
- 8) Your youngest child was enrolled in a Child Health Plus plan at \$30.00 per month, effective January 1, 2017.
- 9) Your youngest child was disenrolled from her Child Health Plus plan, effective November 1, 2017. The notice issued on November 5, 2017 states this is because you did not pay your insurance bill by the payment deadline.
- 10) You re-enrolled your daughter in a Child Health Plus plan on November 6, 2017, for a start date of December 1, 2017.
- 11) You testified you are seeking to have your youngest child's enrollment in her Child Health Plus plan start November 1, 2017.

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

## **Applicable Law and Regulations**

### Timely Appeal Requests

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)).

### 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 cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by NYSOH 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)).

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## Child Health Plus – Eligibility and Enrollment Start Date

A child who meets the eligibility requirements for Child Health Plus 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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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)).

“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 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 you timely requested an appeal of NYSOH's June 10, 2017 eligibility determination and disenrollment notices regarding your oldest child.

The record indicates you are appealing your oldest child's disenrollment from her qualified health plan effective June 30, 2017. NYSOH received your oldest child's updated application on March 6, 2017. The new application stated your child would be her own tax household for 2017, and that she anticipated an annual household income of \$40,000.00. You testified you do not recall making these changes to your application.

NYSOH issued an eligibility determination notice on March 7, 2017, stating your oldest child was eligible for advance payments for a premium tax credit up to \$130.00 per month for a limited time, effective April 1, 2017. The notice directed you to provide proof of her income by June 4, 2017, to confirm her eligibility. NYSOH did not receive the requested income documentation by the stated deadline such that your child's eligibility was redetermined on June 9, 2017. Your child was redetermined eligible to purchase a qualified health plan at full cost, effective July 1, 2017, and disenrolled from her qualified health plan as of June 30, 2017.

The record indicates a formal appeal was filed on September 28, 2017.

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

For an appeal to have been valid on the issue of your oldest child's disenrollment from her qualified health plan, as addressed in the June 10, 2017 eligibility determination and disenrollment notices, an appeal should have been filed by August 14, 2017, allowing for five days of those notices to reach you by regular U.S. Mail. According to the credible evidence in the record, you did not contact NYSOH until September 28, 2017 to file a formal appeal. This date is well beyond 60 days from the June 10, 2017 eligibility determination notice.

Therefore, there has been no valid timely appeal of the June 10, 2017, eligibility determination and disenrollment notices and your appeal on the issue of your oldest child's disenrollment from her qualified health plan as stated in that notice is **DISMISSED**.

The second issue under review is whether NYSOH properly terminated your youngest child's Child Health Plus plan for non-payment of premium effective, October 31, 2017.



Your youngest child was enrolled in a Child Health Plus plan at \$30.00 per month, effective January 1, 2017

On November 5, 2017 NYSOH issued a notice stating that your youngest child was disenrolled from her Child Health Plus plan for non-payment of premiums, effective October 31, 2017.

NYSOH 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, (4) a failure to provide timely notice of an eligibility determination and (5) a denial of 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 or not your youngest child was properly terminated from her Child Health Plus plan for non-payment of premiums. Therefore, your appeal of the November 5, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

The third issue under review is whether NYSOH properly determined that your youngest child's re-enrollment in her Child Health Plus plan was effective December 1, 2017.

You contacted NYSOH on November 6, 2017, to re-enroll your youngest child into her Child Health Plus plan.

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 contacted NYSOH to re-enroll your child into a Child Health Plus plan on November 6, 2017, her re-enrollment would properly take effect the first day of the month following November 2017; that is, on December 1, 2017.

Therefore, the November 7, 2017 plan enrollment notice stating that your youngest child's re-enrollment in her Child Health Plus plan was effective December 1, 2017, is **AFFIRMED**.

However, notes in your account indicated NYSOH requested a backdate of one month from your child's Child Health Plus plan to be effective November 1, 2017. The results of this seem to indicate on their face that this request was granted by her health plan. Your case is **RETURNED** to NYSOH to investigate whether your

youngest child's health plan agreed to backdate her Child Health Plus coverage to November 1, 2017, and to notify you of those results.

## **Decision**

Your appeal of the June 10, 2017 eligibility determination and disenrollment notices terminating your oldest child's enrollment in her qualified health plan is **DISMISSED** as an untimely appeal.

Your appeal of the November 5, 2017 disenrollment notice terminating your youngest child's enrollment in her Child Health Plus plan for non-payment of premium is **DISMISSED** as a non-appealable issue.

The November 7, 2017 plan enrollment notice stating your youngest child's Child Health Plus plan was effective December 1, 2017, was proper and is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to investigate whether your youngest child's health plan agreed to backdate her Child Health Plus coverage to November 1, 2017, and to notify you of those results.

**Effective Date of this Decision:** January 10, 2018

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

Your oldest child's enrollment in her qualified health plan ended effective June 30, 2017.

Your youngest child's enrollment in her Child Health Plus plan ended October 31, 2017.

Your youngest child's re-enrollment in her Child Health Plus plan was effective December 1, 2017.

Your case is being sent back to NYSOH to see if your health plan agreed to a backdate of one month to November 1, 2017. NYSOH will notify you of its findings.

If your child's health plan did agree to backdate her coverage to November 1, 2017, and it is effectuated, you will be responsible for any premium payment owed to her health plan for coverage that month.

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 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 case 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  
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 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 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 June 10, 2017 eligibility determination and disenrollment notices terminating your oldest child's enrollment in her qualified health plan is **DISMISSED** as an untimely appeal.

Your appeal of the November 5, 2017 disenrollment notice terminating your youngest child's enrollment in her Child Health Plus plan for non-payment of premium is **DISMISSED** as a non-appealable issue.

The November 7, 2017 plan enrollment notice stating your youngest child's Child Health Plus plan was effective December 1, 2017, was proper and is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to investigate whether your youngest child's health plan agreed to backdate her Child Health Plus coverage to November 1, 2017, and to notify you of those results.

Your oldest child's enrollment in her qualified health plan ended effective June 30, 2017.

Your youngest child's enrollment in her Child Health Plus plan ended October 31, 2017.

Your youngest child's re-enrollment in her Child Health Plus plan was effective December 1, 2017.

Your case is being sent back to NYSOH to see if your health plan agreed to a backdate of one month to November 1, 2017. NYSOH will notify you of its findings.

If your child's health plan did agree to backdate her coverage to November 1, 2017, and it is effectuated, you will be responsible for any premium payment owed to her health plan for coverage that month.

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).

## **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:**



## 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।

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).



## **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 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.

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).