



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

## Notice of Decision

Decision Date: January 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024168

[REDACTED]

[REDACTED]

On January 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's June 18, 2017 eligibility determination 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 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024168



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your child's eligibility for, and enrollment in, her Child Health Plus (CHP) plan was effective August 1, 2017?

## Procedural History

On June 18, 2017, NYSOH issued a notice of eligibility determination, based on your June 16, 2017 application, stating that your child was eligible to enroll in CHP with a \$9.00 monthly premium, effective August 1, 2017.

Also on June 18, 2017, NYSOH issued a notice of enrollment, based on your plan selection on August 1, 2017, stating that your child was enrolled in a CHP plan, and that this enrollment would start on August 1, 2017.

On November 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP coverage, insofar as it did not begin July 1, 2017.

On January 24, 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 support the following findings of fact:

- 1) You testified that you are appealing for your child's 2017 CHP coverage to be backdated to July 1, 2017.
- 2) You testified that you updated your NYSOH account on June 15, 2017 to apply for coverage for yourself and your child.
- 3) You testified that you did this update over the phone with someone from NYSOH, and were told that your child would be eligible for coverage as of July 1, 2017. You testified that you chose an MVP CHP plan for your child.
- 4) You testified that you took your child to the doctor in July 2017, and found out that she did not have active health insurance coverage.
- 5) You testified that you called NYSOH and were informed that there was a defect on your account that was related to NYSOH's computer system, and that your application was not processed until June 16<sup>th</sup>, which caused your child's coverage to begin on August 1, 2017 instead of July 1, 2017.
- 6) You testified that you asked NYSOH to backdate the coverage, as the problem was not your fault.
- 7) You testified that you were told by NYSOH on July 20, 2017 that your child's coverage would be backdated, but that this did not happen.
- 8) You testified that you spoke to NYSOH several times, but were unable to get the issue resolved.
- 9) You testified that you last spoke to someone at NYSOH on August 1, 2017, and were still unable to get the issue resolved.
- 10) You testified that you stopped calling NYSOH at that point because it seemed like there was nothing you could do to get your child's coverage backdated.
- 11) You testified that no one at NYSOH ever told you that you could file an appeal.
- 12) NYSOH's system reflects that "Incidents" were filed on June 20, 2017 with tracking numbers [REDACTED], regarding your request to backdate coverage.

- 13) Notes entered on June 20, 2017 by a NYSOH agent in Incident [REDACTED] state, "Upon checking in the system. Its true that there is was a defect been created as of 06/15/2017 and already been resolved. This is a valid request for backdate."
- 14) On July 26, 2017, another "Incident" was created with tracking number [REDACTED]. Notes in this incident state, "System is showing a system defect. This backdate request was denied twice with no mention of a defect. Whether or not the defect was a CSS error, the consumer tried to renew on time and the CSS told her there was a defect so the process could not continue. This is not a consumer error . . . Please backdate [REDACTED] for a start date of 07/01/17 according to phone call on 06/15/17."
- 15) The note entered on July 26, 2017 in Incident [REDACTED] also referenced "System Defect: [REDACTED]"
- 16) On August 2, 2017, the same NYSOH agent who entered the note above entered a second note in Incident [REDACTED] stating, "After review of the incident & account, this may be a valid request for a new enrollment start date due to the defect filed on 06.15.17 preventing the consumer from completing the application due to the lack of a NEXT button on the "Coverage [REDACTED] Could Have" page in the account. It appears the consumer was able to complete the application and enrollment on 06/16/17 instead. Based on the number of denied incidents filed for a new enrollment start date, suggest to the consumer to file an appeal."
- 17) There is no indication in any of the "Incidents" filed that anyone from NYSOH contacted, or attempted to contact, you to inform you of the outcome of your backdate request, nor to advise you of your right to file an appeal.
- 18) You testified that you have outstanding medical bills for your child 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**

### Child Health Plus

The "period of eligibility" for CHP 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

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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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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 issue under review is whether NYSOH properly determined that your child's eligibility for, and enrollment in, her CHP coverage was effective August 1, 2017.

You testified that you contacted NYSOH on June 15, 2017, and enrolled your child into CHP coverage. However, your NYSOH account contains only an application that was processed on June 16, 2017.

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 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 NYSOH's system reflects that your application was filed, and a CHP plan was selected, on June 16, 2017, your child's eligibility and enrollment would ordinarily start on August 1, 2017.

However, the record contains ample evidence to show that NYSOH acknowledges both that you attempted to file an application on June 15, 2017, and that there was a defect ( [REDACTED] ) on your account that prevented your application from being processed on that day. Moreover, NYSOH's system shows that, rather than backdate your child's coverage once the defect was discovered, NYSOH repeatedly and improperly denied the request to backdate coverage, and failed to apprise you of this denial and of your right to file an appeal.

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For this reason, the June 18, 2017 eligibility determination notice is MODIFIED to state that your child was eligible for CHP with a \$9.00 monthly premium, effective July 1, 2017. Likewise, the June 18, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan began on July 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's enrollment in her CHP plan to July 1, 2017, and to notify the plan accordingly.

You will be responsible for any outstanding premium payments that result from the backdating of your child's coverage.

## **Decision**

The June 18, 2017 eligibility determination notice is MODIFIED to state that your child was eligible for CHP with a \$9.00 monthly premium, effective July 1, 2017.

The June 18, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan began on July 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's enrollment in her CHP plan to July 1, 2017, and to notify her plan accordingly.

**Effective Date of this Decision:** January 30, 2018

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

Your child's CHP eligibility and plan enrollment should have started on July 1, 2017.

Your case is being sent back to NYSOH to backdate the start date of your child's CHP plan enrollment to July 1, 2017.

You will be responsible for any outstanding premium payments that result from the backdating of your child's coverage.

## **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.

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).

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 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

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## **Summary**

The June 18, 2017 eligibility determination notice is MODIFIED to state that your child was eligible for CHP with a \$9.00 monthly premium, effective July 1, 2017.

The June 18, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in her CHP plan began on July 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's enrollment in her CHP plan to July 1, 2017, and to notify her plan accordingly.

Your child's CHP eligibility and plan enrollment should have started on July 1, 2017.

Your case is being sent back to NYSOH to backdate the start date of your child's CHP plan enrollment to July 1, 2017.

You will be responsible for any outstanding premium payments that result from the backdating of your child's coverage.

## **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 okyer& 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.

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