

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

## Notice of Decision

Decision Date: January 24, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024229

[REDACTED]

[REDACTED]

On January 3, 2018, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's November 3, 2017 disenrollment notice and the November 7, 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 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 24, 2018

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000024229



## Issues

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

Does the Appeals Unit of NY State of Health (NYSOH) have the authority to review whether NYSOH properly terminated your children's enrollment in their Child Health Plus (CHP) plan for non-payment of premium, effective October 31, 2017?

Did NYSOH properly determine that your children's reenrollment in their CHP plan was effective December 1, 2017?

## Procedural History

On April 4, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for CHP, effective May 1, 2017.

Also on April 4, 2017, NYSOH issued a notice of enrollment, stating that your children were enrolled in a CHP plan, and that this enrollment in the plan would start May 1, 2017.

On November 3, 2017, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan was terminated, effective October 31, 2017, because a premium payment had not been received by the health plan.

On November 6, 2017, NYSOH received your children's updated application for health insurance.

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On November 7, 2017, NYSOH issued a notice of eligibility determination, based on your November 6, 2017 application, stating that your children were eligible to enroll in CHP, effective December 1, 2017.

Also on November 7, 2017, NYSOH issued a notice of enrollment, based on your plan selection on November 6, 2017, stating that your children were enrolled in a CHP plan and that coverage would start on December 1, 2017.

On November 9, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan, insofar as they did not have coverage for the month of November 2017.

On January 3, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you and your spouse, [REDACTED], provided testimony. The record was developed during the hearing and held open through January 18, 2018 to allow you time to submit supporting documentation.

As of January 19, 2018, no documentation was received by the Appeals Unit, and none was visible in your NYSOH account. The record is now closed.

## **Findings of Fact**

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

- 1) You testified that you are appealing your children's disenrollment from their CHP plan for the month of November 2017.
- 2) Your children were enrolled into a CHP plan, effective May 1, 2017.
- 3) Your spouse testified that you paid the premiums for your children's coverage over the phone with Fidelis by providing your bank account number and routing number.
- 4) Your spouse testified that when you or she made a payment with Fidelis, they would provide a confirmation number, and that you receive a confirmation number for the October 2017 premium payment.
- 5) Your children were disenrolled from their CHP plan, effective October 31, 2017.
- 6) Your spouse testified that you received a letter at the end of October 2017 stating that the payment you made was returned to the bank. She testified that this had happened once before in August 2017.

- 7) You and your spouse both testified that your bank told you that they were never presented with a request for payment by Fidelis and that, if they had been, a payment would have been made, as your bank account had sufficient funds in it.
- 8) Your spouse testified that, when she called Fidelis at the end of October 2017, she informed them that she was worried about her children's coverage being terminated and asked if she could pay another way. She testified that Fidelis told her not to worry and they would look into it, and not to make another payment in the meantime.
- 9) Your spouse testified that, when she heard back from Fidelis, it was already November, and they told her that the payment was rejected by the bank and that nothing could be done.
- 10) Your spouse testified that she immediately contacted NYSOH to reenroll you children in coverage and asked that the coverage begin immediately, as one of your children is in ongoing treatment.
- 11) Your NYSOH account reflects that your account was updated, and a CHP plan was selected for enrollment on November 6, 2017.
- 12) Your spouse testified that she also asked Fidelis if they would backdate your children's coverage, but Fidelis advised her to appeal through NYSOH.
- 13) Your spouse testified that you had to pay medical bills out of pocket in the month of November 2017, and you are looking to have those payments reimbursed.
- 14) You testified that your bank provided you confirmation in writing that no request for payment was ever presented by Fidelis to the bank, and that you would submit that documentation to the Appeals Unit after the hearing.
- 15) The record was kept open for fifteen days after the hearing to allow you time to submit this documentation, but no documentation was received or visible in your NYSOH account.

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 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) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) 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)).

### Child Health Plus

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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for CHP, 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 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 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 [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 CHP begins on the first day of the month during which a child is eligible. A child will

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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 the Appeals Unit has the authority to review whether NYSOH properly terminated your children's enrollment in their CHP plan for non-payment of premium, effective October 31, 2017.

On April 4, 2017, your children were enrolled in a CHP plan, effective May 1, 2017.

Your spouse testified that you paid your premiums to your children's CHP plan over the phone with Fidelis by providing your bank account and routing numbers, and that Fidelis would provide a confirmation number. You and your spouse both testified that a payment was made for October 2017, but you were notified in writing by Fidelis that the request for payment was rejected by your bank. You testified that you contacted your bank and were told that no request for payment was received and, if one had been received, payment would have been made, as there was sufficient money in your bank account. You testified that you had something in writing from the bank to confirm that Fidelis did not request payment. You were given time to provide that documentation after the hearing, but no documentation was received by the Appeals Unit.

Your spouse testified that she called Fidelis at the end of October to ask them to investigate, but they told her in early November that there was a problem with the payment, and that they could not do anything at that point. On November 3, 2017, NYSOH issued a notice stating that your children were disenrolled from their CHP 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) a failure to provide timely notice of an eligibility determination and (4) 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 your children's enrollment in their CHP plan was properly terminated for

non-payment of premiums. Therefore, your appeal of the November 3, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The second issue is under review whether NYSOH properly determined that your children's reenrollment in their CHP plan was effective December 1, 2017.

You contacted NYSOH on November 6, 2017 to reenroll your children into their CHP plan.

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.

As you contacted NYSOH to reenroll your children into a CHP plan on November 6, 2017, their reenrollment should have taken effect the first day of the first month after November: that is, on December 1, 2017.

Therefore, the November 7, 2017 enrollment confirmation notice stating that your children's reenrollment in their CHP plan was effective December 1, 2017 is AFFIRMED.

## **Decision**

Your appeal of the insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective October 31, 2017, is DISMISSED as a non-appealable issue.

The November 7, 2017 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** January 24, 2018

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

This decision does not change your children's eligibility.

Your children's reenrollment in their CHP plan was effective December 1, 2017.



## **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 insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective October 31, 2017, is **DISMISSED** as a non-appealable issue.

The November 7, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your children's eligibility.

Your children's reenrollment in their CHP plan was effective December 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)**

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## **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 bεtumi 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.

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