



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: AP000000024730

[REDACTED]

[REDACTED]

On January 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 23, 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 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 24, 2018

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000024730

[REDACTED]

## Issue

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

Did NY State of Health properly determine that your child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2018?

## Procedural History

On November 6, 2017, you updated your NY State of Health (NYSOH) to include your child and a non-financial application for health insurance was submitted that day.

On November 7, 2017, NYSOH issued an eligibility determination notice stating, in part, that your child was conditionally eligible to enroll in a qualified health plan at full cost, effective December 1, 2017.

On November 16, 2017, NYSOH issued a plan enrollment notice confirming, in part, your child's enrollment in a full pay qualified health plan, effective October 1, 2017.

On November 22, 2017, NYSOH received your updated application for financial assistance with health insurance. That day, a preliminary eligibility determination was prepared finding, in part, your child eligible to enroll into a Child Health Plus plan with a \$45.00 monthly premium, effective January 1, 2018. Also that day, you selected a plan for his enrollment.

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Also on November 22, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin as of October 1, 2017.

On November 23, 2017, NYSOH issued an eligibility determination stating, in part, that your child was eligible to enroll in a Child Health Plus plan with a \$45.00 monthly premium, effective January 1, 2018.

Also on November 23, 2017, NYSOH issued a plan enrollment notice confirming, in part, your child's enrollment in a Child Health Plus plan with a \$45.00 monthly premium, effective January 1, 2018.

On January 17, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open to allow for the Hearing Officer to listen to the telephone recordings from NYSOH's Call Center on November 6, 2017.

The Hearing Officer listened to the available telephone recording from November 6, 2017, after which the record was closed.

## **Findings of Fact**

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

- 1) You testified that you are appealing only your child's Child Health Plus plan start date.
- 2) According to your NYSOH account and testimony, your child was born on [REDACTED]
- 3) According to your NYSOH account, your child was added to your NYSOH account on November 6, 2017, and a non-financial application was submitted that same day.
- 4) According to your NYSOH account, your child was found eligible to enroll into a qualified health plan at full cost and was enrolled into a plan, effective October 1, 2017.
- 5) You testified that you did not know what Child Health Plus was when you contacted NYSOH on November 6, 2017.
- 6) NYSOH's Appeals Unit reviewed the telephone call you made to NYSOH on November 6, 2017, and determined that:

- a. You indicated that you were calling to add your child to your health insurance; and
  - b. The NYSOH representative began to add your child; and
  - c. At no point in the conversation, did the NYSOH representative asked if you would like to see if your newborn child would be eligible for a subsidy or if you were interested in seeing if your child might be eligible for a Child Health Plus plan; and
  - d. At no time during the call, did you indicate that you were not interested in Child Health Plus.
- 7) You testified that you received a medical bill for your child from the hospital where you gave birth and, due to the deductible, are unable to afford to pay that bill.
  - 8) You testified that after receiving this bill, on [REDACTED] you went to your doctor's office and asked to speak with the application counselor to see if there were any other more affordable health insurance options for your child.
  - 9) You testified that the application counselor stated that your child may be eligible for Child Health Plus, and that this was the first time you heard of this health insurance program.
  - 10) You testified that, had you known about Child Health Plus when you added your child to your NYSOH account, you would inquired as to whether your child was eligible and, if able, enrolled your child that day.
  - 11) You testified that you never submitted a financial application to NYSOH in the past because you were always informed by an application counselor that your income level was too high to receive a subsidy.
  - 12) You first submitted an application to NYSOH for financial assistance on November 22, 2017.
  - 13) According to your NYSOH account and testimony, you enrolled your child into a Child Health Plus plan on November 22, 2017.
  - 14) According to your NYSOH account, your child's Child Health Plus plan coverage with a \$45.00 monthly premium began as of January 1, 2018.
  - 15) You testified that you would like your child's Child Health Plus plan to start as of October 1, 2017, to cover expenses related to his medical care.

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

## **Applicable Law and Regulations**

### 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 NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

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 [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).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into CHP, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2018.

Your child was born [REDACTED], and on November 6, 2017, your child was added to your NYSOH account. A non-financial application was submitted that day, and your child was found eligible for and enrolled in a full pay qualified health plan, effective October 1, 2017. On November 22, 2017, a financial application was submitted and your child was found eligible for and was enrolled in a Child Health Plus plan with a \$45.00 monthly premium, effective January 1, 2018.

You testified that you thought that the only choice for coverage for your child was to include him in your qualified health plan coverage. You testified that when you contacted NYSOH on November 6, 2017, you were unaware of the Child Health Plus program. Further, you testified that you never submitted a financial application in the past because you were informed by your application counselor that you were over the income limit for financial assistance for a one-person household. A review of the telephone recording from November 6, 2017 indicates that you informed the NYSOH representative that you were looking to have your child enrolled into health insurance. At no time during this telephone call did the NYSOH representative ask you if you would like to see if your child was eligible for a financial subsidy with his health insurance, nor did the representative inform you that your child may be eligible for Child Health Plus. During the hearing, you testified that, had the Child Health Plus program been explained to you during the initial application on November 6, 2017, you would have attempted to enroll your child into a Child Health Plus plan that day.

Ordinarily, the date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month. Further, section 2511 of the Public Health Law has been amended to provide that CHP coverage shall be retroactive to the first day of the month of birth for newborns, effective January 1, 2017, provided that the application for coverage on behalf of the child was made prior to, or within sixty days of, the child's birth.

However, the credible evidence on the record indicates that you were not made aware that there were financial assistance options for your child when you first applied on November 6, 2017. The credible evidence further indicates that, had you known about the Child Health Plus program on November 6, 2017 when you called to add your child to your NYSOH account, that you would have submitted a financial application. Had you submitted a financial application on November 6, 2017, your child would have been found eligible to enroll in a Child Health Plus

plan with a \$45.00 monthly premium and you would have been able to select a plan for your child's enrollment that day.

Further, your child was born on [REDACTED] and you added him to your NYSOH account on November 6, 2017; which was within sixty days of his birth. As a result, your child's Child Health Plus plan should have started the first day of the month of his birth; which was October 1, 2017. The same outcome is true when you updated your application to a financial one on your child's behalf on November 22, 2017, as you were still within sixty days of his birth.

Therefore, the November 23, 2017 eligibility determination and plan enrollment notices stating that your child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2018 are MODIFIED to reflect an eligibility effective date and enrollment start date of October 1, 2017.

Your case is RETURNED to NYSOH to disenroll your child from his qualified health plan as of October 1, 2017, enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of October 1, 2017, and notify you accordingly.

## **Decision**

The November 23, 2017 eligibility determination and plan enrollment notices stating that your child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2018, are MODIFIED to reflect an eligibility effective date and enrollment start date of October 1, 2017.

Your case is RETURNED to NYSOH to disenroll your child from his qualified health plan as of October 1, 2017, enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of October 1, 2017, and notify you accordingly.

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

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

By this Decision, the effective date of your child's Child Health Plus plan is October 1, 2017.

Your case is being sent back to NYSOH to ensure that your child is disenrolled from his qualified health plan as of October 1, 2017, and is eligible for and enrolled into his Child Health Plus plan with a \$45.00 monthly premium as of October 1, 2017.

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 will be responsible for any premium payments for the months your child is enrolled into 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.

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:

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).

- 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**

The November 23, 2017 eligibility determination and plan enrollment notices stating that your child's eligibility for and enrollment in his Child Health Plus plan was effective January 1, 2018, are MODIFIED to reflect an eligibility effective date and enrollment start date of October 1, 2017.

Your case is RETURNED to NYSOH to disenroll your child from his qualified health plan as of October 1, 2017, enroll your child into his Child Health Plus plan with a \$45.00 monthly premium as of October 1, 2017, and notify you accordingly.

By this Decision, the effective date of your child's Child Health Plus plan is October 1, 2017.

Your case is being sent back to NYSOH to ensure that your child is disenrolled from his qualified health plan as of October 1, 2017, and is eligible for and enrolled into his Child Health Plus plan with a \$45.00 monthly premium as of October 1, 2017.

You will be responsible for any premium payments for the months your child is enrolled into 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।

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&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.

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