



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: AP000000024813

[REDACTED]

[REDACTED],

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 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 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 24, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024813



## 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 enrollment in his Child Health Plus (CHP) plan was effective January 1, 2018?

## Procedural History

On September 3, 2017, NYSOH issued a renewal notice stating that it was time to renew your child's application for financial assistance. The notice stated that, based on information from state and federal data sources, NYSOH could not determine whether your child qualified for financial assistance. The notice directed you to update your NYSOH account between September 16, 2017 and October 15, 2017, or the financial assistance he was receiving could end.

On October 11, 2017, you updated your NYSOH account.

On October 12, 2017, NYSOH issued a notice of eligibility determination, based on your October 11, 2017 application, stating that your child was eligible to enroll in CHP for a limited time with a \$9.00 monthly premium, effective November 1, 2017.

On October 13, 2017, NYSOH issued a disenrollment notice, stating that your child's enrollment in his MMC plan was ending, effective October 31, 2017, because he was no longer eligible to remain enrolled in his plan.

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 November 27, 2017, you selected a CHP plan for enrollment on behalf of your child. That same day, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's CHP plan, insofar as it did not begin November 1, 2017.

On November 28, 2017, NYSOH issued a notice of enrollment, based on your plan selection on November 27, 2017, stating that your child was enrolled in a CHP plan, and that this enrollment would start January 1, 2018.

On January 12, 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 the start date of your child's CHP plan enrollment.
- 2) You submitted an updated application to NYSOH for financial assistance on October 11, 2017.
- 3) Your NYSOH account does not reflect that a CHP plan was selected for enrollment on that date.
- 4) You testified that you had received a call in the beginning of October 2017 informing you that your child's coverage was coming to an end, and that you needed to update his coverage.
- 5) You testified that you were told that all you needed to do at that point was provide your child's Social Security number, and that no other action was needed on your part.
- 6) You testified that your husband had a second call with NYSOH and that he was told that NYSOH had all the information they needed.
- 7) You testified that you are not sure when these calls took place, but that you are sure you spoke with NYSOH two times prior to October 15, 2017.
- 8) You testified that you never received a bill for your child's CHP premium, so you called NYSOH and were informed that your child was never enrolled in a plan.

- 9) You testified that you enrolled him in coverage immediately, but were told that the coverage would not start until January 1, 2018.
- 10) You testified that you do not believe your child incurred any medical bills in November or December, but that you want his coverage backdated.
- 11) On December 26, 2017, a NYSOH agent entered notes into NYSOH's system to summarize a recording of a telephone call between you (or your spouse) and NYSOH that was reviewed by the agent. The notes read as follows:

“Consumer phoned into the MP to request assistance with child's enrollment. Consumer states that the child's coverage is ending on 10/31/2017. Agent accesses account and states “Yep, it appears that your child has a \$9.00/month premium starting 11/1/2017. Agent never verifies enrollment was placed, only that the eligibility reads \$9.00/month premium.”

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 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 is whether NYSOH properly determined that your child's enrollment in his CHP plan was effective January 1, 2018.

Your NYSOH account reflects that you selected a CHP plan for enrollment on behalf of your child on November 27, 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 you selected a CHP plan on November 27, 2017, your child's CHP enrollment would ordinarily begin on the first day of the second month following November: January 1, 2018.

However, you testified that you thought you had selected a CHP plan in October 2017. You testified that you and your husband spoke to NYSOH at least twice prior to October 15, 2017, and that you were under the impression that your child's coverage would continue with no lapse. A review of notes entered into NYSOH's system reveals that a NYSOH agent listened to one of the phone calls you (or your spouse) had with NYSOH in October 2017. The agent's notes indicated that you (or your spouse) called because you were concerned about your child's coverage ending on October 31, 2017. The agent further noted that the NYSOH employee you spoke with confirmed that your child was eligible for CHP with a \$9.00 monthly premium as of November 1, 2017, but did not mention your child's lack of enrollment, and did not offer to assist you in enrolling your child in a plan so that he would have coverage as of November 1, 2017.

Since, according to NYSOH's own system notes, it appears that your child's lack of enrollment in a plan was due, at least in part, to a failure on NYSOH's part to adequately assist you in timely enrolling your child in a CHP plan, the November 28, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began as of November 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's CHP enrollment to November 1, 2017. You will be responsible for any outstanding premiums that result from the backdating of your child's coverage.

## **Decision**

The November 28, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began on November 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's CHP plan enrollment to November 1, 2017.

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

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

The effective date of your child's enrollment in his CHP plan is changed to November 1, 2017.

Your case is being sent back to NYSOH to backdate your child's enrollment in his CHP plan to November 1, 2017.

You will be responsible for any outstanding premiums 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.

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

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 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**

The November 28, 2017 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his CHP plan began on November 1, 2017.

Your case is RETURNED to NYSOH to backdate your child's CHP plan enrollment to November 1, 2017.

The effective date of your child's enrollment in his CHP plan is changed to November 1, 2017.

Your case is being sent back to NYSOH to backdate your child's enrollment in his CHP plan to November 1, 2017.

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

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.

**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.

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