



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

## Notice of Decision

Decision Date: February 05, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024855

[REDACTED]

[REDACTED]

On January 18, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 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 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: February 05, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024855



## 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 plan was effective January 1, 2018?

## Procedural History

On November 15, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid, effective November 1, 2016. You enrolled your child into a Medicaid Managed Care plan, effective December 1, 2016.

On September 21, 2017, NYSOH issued a renewal notice stating that it was time to renew your child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether he would qualify for financial help paying for his health coverage, and that you needed to update your account by November 15, 2017 or he might lose the financial assistance he was currently receiving.

No updates were made to your account by November 15, 2017.

On November 18, 2017, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost. This was because you had

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not responded to the renewal notice and had not completed his renewal within the required time frame. His eligibility ended effective December 1, 2017.

On November 18, 2017, NYSOH issued a disenrollment notice ending your child's enrollment in his Medicaid Managed Care plan, effective November 30, 2017. The notice stated this was because he was no longer eligible to enroll in insurance through NYSOH.

On November 27, 2017, NYSOH received your child's updated application for health insurance. That day, a preliminary eligibility determination was prepared finding your child eligible for Child Health Plus at \$9.00 per month. You selected a plan for your child's enrollment that day with an effective start date of January 1, 2018.

Also on November 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it began your child's Child Health Plus coverage on January 1, 2018, and not December 1, 2017.

On November 28, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus for a cost of \$9.00 per month, effective January 1, 2018.

On November 28, 2017, a plan enrollment notice was issued confirming your Child Health Plus plan selection on November 27, 2017, with a January 1, 2018 enrollment start date.

On January 18, 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) You testified that you previously signed up to receive your notices from NYSOH via electronic mail.
- 2) You testified you had changed your contact preference to regular mail notices when you contacted NYSOH in November 2017.
- 3) You testified that you did not receive any electronic alerts to your e-mail address regarding any notices in your NYSOH account telling you that you needed to update your application in order to renew your child's eligibility. You also testified that you did not receive any renewal notice by regular mail.

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- 4) You testified you were checking your primary e-mail account for the time period of November 2017.
- 5) According to your NYSOH account, on November 27, 2017 NYSOH received your child's updated application for health insurance.
- 6) You testified that you are seeking to backdate coverage for one month from January 1, 2018, to December 1, 2017.
- 7) According to your NYSOH account, NYSOH requested a backdate of one month for your child to December 1, 2017, which was granted on December 18, 2017, in [REDACTED].
- 8) You testified that, after your child's coverage was backdated to December 1, 2017, he was disenrolled for non-payment of premium.
- 9) Your child was re-enrolled into his Child Health Plus plan for a start date of February 1, 2018.
- 10) You testified that you paid your premium dues for December 2017 and January 2018, at the same time before the January 10, 2018 due date listed on the premium invoice from your health plan.
- 11) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices" ([REDACTED]).
- 12) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the September 21, 2017 renewal notice.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

### Child Health Plus

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 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 [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of

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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 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 enrollment in his Child Health Plus plan was effective January 1, 2018.

Your child was originally found eligible for Medicaid effective November 1, 2016. Your child was subsequently enrolled into a Medicaid Managed Care plan effective December 1, 2016.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's September 21, 2017 renewal notice stated that there was not enough information to determine whether your child was eligible to continue her financial assistance for health insurance, and that you needed to supply additional information by November 15, 2017, or your financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his Medicaid Managed Care plan effective November 30, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice that you needed to update your account.

You first renewed your child's eligibility for financial assistance through NYSOH for the upcoming coverage year on November 27, 2017. Therefore, it is assumed that the information you provided at that time is the information that would have been used had you been timely informed of the need to update your account, as stated in the renewal notice.

Had the information been submitted at that time, your child's enrollment in his Child Health Plus plan would have begun on December 1, 2017.

Therefore, the November 28, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective December 1, 2017.

The record supports NYSOH representatives may have already communicated to your health plan that your child's Child Health Plus Plan was to be backdated to December 1, 2017. Your case is RETURNED to NYSOH's Plan Management Unit to ensure the change is made and your child is enrolled in a Child Health Plus plan effective December 1, 2017, and to notify you of the results.

## **Decision**

The November 28, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective December 1, 2017.

The record supports NYSOH representatives may have already communicated to your health plan that your child's Child Health Plus Plan was to be backdated to December 1, 2017. Your case is RETURNED to NYSOH's Plan Management Unit to ensure the change is made and your child is enrolled in a Child Health Plus plan effective December 1, 2017, and to notify you of the results.

**Effective Date of this Decision:** February 05, 2018

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

Your child's enrollment in his Child Health Plus plan should have been effective as of December 1, 2017.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan as of December 1, 2017. NYSOH will notify you once this is done.

## **If You Disagree with this Decision (Appeal Rights)**

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).



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:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
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- By fax: 1-855-900-5557

## **Summary**

The November 28, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective December 1, 2017.

The record supports NYSOH representatives may have already communicated to your health plan that your child's Child Health Plus Plan was to be backdated to December 1, 2017. Your case is RETURNED to NYSOH's Plan Management Unit to ensure the change is made and your child is enrolled in a Child Health Plus plan effective December 1, 2017, and to notify you of the results.

Your child's enrollment in his Child Health Plus plan should have been effective as of December 1, 2017.

Your case is being sent back to NYSOH to reinstate your child into his Child Health Plus plan as of December 1, 2017. NYSOH will notify you once this is done.

## **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 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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