



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

### Notice of Decision

Decision Date: March 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025212

[REDACTED]

Dear [REDACTED]

On February 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2017 eligibility determination and December 6, 2017 plan enrollment 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 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: March 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025212

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your newborn's enrollment in his Child Health Plus (CHP) plan was effective January 1, 2018 and not the date of his birth?

## Procedural History

On November 16, 2017, NYSOH issued an eligibility determination notice, based on your November 15, 2017 application, stating that your newborn (child) was conditionally eligible for a full price qualified health plan. That notice further stated that your child was not eligible for CHP because you told us that you are currently enrolled or have access to coverage through the New York State Health Insurance program (NYSHIP). The notice directed you to provide proof of your child's citizenship status and Social Security number by February 13, 2018 to confirm his eligibility.

On November 29, 2017, NYSOH issued an eligibility redetermination notice, based on your November 28, 2017 updated application, stating that your child was conditionally eligible for Medicaid as of November 1, 2017. This was because your income of \$73,000.00 was at or below the allowable income limit for that program. The notice directed you to provide proof of your child's citizenship status and Social Security number by February 13, 2018 to confirm his eligibility.

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On December 4, 2017, you updated your child's application for health insurance with financial assistance. That day a preliminary eligibility redetermination was issued stating that your child was eligible for and enrolled in a CHP plan with a \$15.00 monthly premium, effective January 1, 2018.

Also on December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's enrollment in a CHP plan insofar as it did not begin on [REDACTED] his date of birth.

On December 5, 2017, NYSOH issued an eligibility redetermination notice, consistent with the preliminary eligibility redetermination, stating that your child was eligible to enroll in a CHP plan with a \$15.00 monthly premium for a limited time, effective January 1, 2018.

Also on December 6, 2017, a plan enrollment notice was issued confirming your child's enrollment in a CHP plan, effective January 1, 2018.

On February 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 supports the following findings of fact:

- 1) According to your NYSOH account and testimony, your child was born on [REDACTED].
- 2) According to your NYSOH account, you added your child to your NYSOH account on November 15, 2017. That application indicates that you are currently enrolled or have access to coverage through NYSHIP.
- 3) You testified that because your certified application counselor made an error in on your child's November 15, 2017 application, by stating that your child was eligible for NYSHIP, he was found eligible for a full price health plan instead of CHP. When you requested a backdate of your child's CHP plan, you were advised by NYSOH's Account Review Unit that this could not be done because [upon updating your child's account on November 29, 2017] your child was found eligible for Medicaid as of November 1, 2017.
- 4) You testified that at the time NYSOH issued the November 16, 2017 eligibility determination notice, your child was not eligible for or enrolled in NYSHIP.

- 5) According to your NYSOH account, you updated your child's application for financial assistance on November 28, 2017 and he was found conditionally eligible for Medicaid pending submission of proof of citizenship and Social Security number.
- 6) According to your NYSOH account, you work for [REDACTED], NY.
- 7) According to Incident # [REDACTED], on December 4, 2017 you stated that you would have to access NYSHIP for your children to be eligible and that because you are not enrolled your children are not eligible for coverage.
- 8) You submitted an updated application to NYSOH for financial assistance on December 4, 2017.
- 9) You testified, and the record reflects, that you enrolled your child into a CHP plan on December 5, 2017.
- 10) You testified that you are seeking CHP backdated because you have medical bills that were not covered by Medicaid Fee-For Service.

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

## **Applicable Law and Regulations**

### Child Health Plus - General

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 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

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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).

#### Child Health Plus – Newborns

A newborn child who is eligible for Child Health Plus shall be enrolled retroactively to the first day of the month in which the child is born, provided that the applicant submitted a completed application and required information and documentation within sixty days of the child's birth (NY Public Health Law §2511(2)(i)(i), effective January 1, 2017).

#### Child Health Plus - NYSHIP

A child who meets the eligibility requirements for Child Health Plus (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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for or have access to NYSHIP coverage, for which the State or public agency pays all or part of the cost of the family health insurance coverage"; that is, must not be eligible for NYSHIP through a parent or guardian who is a public employee of the State or a public agency with access to NYSHIP coverage (CHP Model Contract, Appendix C, Section 4.5).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child's enrollment in a CHP plan was not effective as of October 31, 2017, his date of birth.

According to your NYSOH account, you updated your child's account on December 4, 2017 and you were able to enroll him into a CHP plan that day.

In New York State, if an application for insurance coverage is received before the 15th of the month, benefits are provided on the first day of the next month. If an application for insurance coverage is received through the Marketplace after the 15th of the month, health plan benefits are provided on the first day of the second subsequent month. This rule applies to Qualified Health Plans, Medicaid Managed Care plans, and CHP plans.

However, in the case of newborns born after January 1, 2017, the newborn will be enrolled retroactively to the first day of the month in which the child was born, provided that the applicant submitted a completed application and required information and documentation within sixty (60) days of the child's birth.

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The record reflects that your newborn was born on October 31, 2017. Since your child was found eligible for CHP on December 4, 2017, which is only [REDACTED] from the child's birth, he should have been enrolled retroactively to the first day of the month he was born; that is on [REDACTED]. Therefore, your child is eligible for retroactive enrollment in his CHP plan.

However, the record indicates that your child may have access to NYSHIP through your employer. In order for a child to enroll in CHP, they must meet certain eligibility criteria. One of those criteria is that the child cannot be eligible for other health insurance coverage for which the State or a public agency pays all or part of the family health insurance coverage; this includes NYSHIP.

Since the evidence of the record reflects that you could be a County employee and your child may have access to NYSHIP coverage, and therefore would not be eligible to enroll in CHP, the case is RETURNED to NYSOH to investigate whether your child has access to NYSHIP coverage through your employer.

If it is determined that your child is not eligible for or has access to NYSHIP, NYSOH'S December 5, 2017 eligibility determination is MODIFIED to state that your child was eligible for CHP, effective [REDACTED].

Likewise, if it is determined that your child is not eligible for or has access to NYSHIP, NYSOH's December 6, 2017 plan enrollment notice is MODIFIED to state that your child was enrolled in his CHP plan, effective [REDACTED].

## **Decision**

Your case is RETURNED to NYSOH to investigate whether your child is eligible for or has access to NYSHIP, and to notify you accordingly.

If it is determined that your child is not eligible for or has access to NYSHIP, NYSOH'S December 5, 2017 eligibility determination is MODIFIED to state that your child was eligible for CHP, effective [REDACTED].

If it is determined that your child is not eligible for or has access to NYSHIP, NYSOH's December 6, 2017 plan enrollment notice is MODIFIED to state that your child was enrolled in his CHP plan, effective [REDACTED].

**Effective Date of this Decision:** March 21, 2018

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

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 is not a final determination of your child's eligibility. Your case is being sent back to NYSOH to determine whether your child is eligible for or has access to NYSHIP.

NYSOH is directed to notify you when this is complete.

### **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):**

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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- By fax: 1-855-900-5557

## **Summary**

Your case is RETURNED to NYSOH to investigate whether your child is eligible for or has access to NYSHIP, and to notify you accordingly.

If it is determined that your child is not eligible for or has access to NYSHIP, NYSOH'S December 5, 2017 eligibility determination is MODIFIED to state that your child was eligible for CHP, effective [REDACTED].

If it is determined that your child is not eligible for or has access to NYSHIP, NYSOH's December 6, 2017 plan enrollment notice is MODIFIED to state that your child was enrolled in his CHP plan, effective [REDACTED].

This is not a final determination of your child's eligibility. Your case is being sent back to NYSOH to determine whether your child is eligible for or has access to NYSHIP.

NYSOH is directed to notify you when this is complete.

## **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)**

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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 مجانًا.

### **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।

### **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 महत्त्वपूर्ण 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 b etumi ama wo obi a okyer e kasa a woka no ase ama wo kwa a wontua hwee.

### **(Urdu) اردو**

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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.