



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

## Notice of Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025632

[REDACTED]

Dear [REDACTED]

On February 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 2017 notice of disenrollment and the November 28, 2017 notice of enrollment confirmation.

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 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025632



## 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 the termination of your child's Child Health Plus enrollment for failure to pay the premium by the payment deadline?

Did NYSOH properly determine your child's subsequent enrollment in a Child Health Plus plan became effective no earlier than January 1, 2018?

## Procedural History

On September 20, 2017, NYSOH received an application for financial assistance with health insurance submitted on behalf of your child.

On September 21, 2017, NYSOH issued an enrollment notice, based on your September 20, 2017 plan selection, confirming your child's enrollment in a Child Health Plus (CHP) plan with a \$30.00 monthly premium, effective September 1, 2017.

On September 30, 2017, NYSOH issued an eligibility determination notice, based on your September 20, 2017 application, stating your child was eligible for CHP, for a limited time, with a \$30.00 monthly premium, effective September 1, 2017. The notice directed you to submit proof of your household income by November 19, 2017 to confirm your child's eligibility or he might lose his insurance or receive less help paying for his coverage. The notice also directed you to submit

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proof of your child's citizenship status and Social Security number by December 19, 2017.

On October 18, 2017, NYSOH issued an eligibility determination notice, based on your October 17, 2017 application, stating your child was eligible for CHP, for a limited time, with a \$30.00 monthly premium, effective September 1, 2017. The notice directed you to submit proof of your household income by November 19, 2017 to confirm your child's eligibility or he might lose his insurance or receive less help paying for his coverage.

On October 26, 2017, NYSOH systematically redetermined your child's eligibility.

On October 27, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for CHP with a \$60.00 monthly premium, effective September 1, 2017.

Also on October 27, 2017, NYSOH issued an enrollment notice confirming your child's enrollment in a CHP plan with a \$60.00 monthly premium.

On November 21, 2017, the health plan initiated termination of your child's CHP enrollment.

On November 22, 2017, NYSOH issued a disenrollment notice stating your child's CHP coverage was terminated, effective September 1, 2017, because you did not pay the insurance bill by the payment deadline.

On November 27, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your child.

On November 28, 2017, NYSOH issued an eligibility determination stating your child was eligible for CHP with a \$60.00 monthly premium, effective January 1, 2018.

Also on November 28, 2017, NYSOH issued an enrollment notice, based on your November 27, 2017 plan selection, confirming your child's enrolled in a CHP plan, effective January 1, 2018.

On December 11, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your child did not have coverage from September through December 2017.

On February 28, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

## Findings of Fact

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

- 1) According to your account, your child was born on [REDACTED].
- 2) NYSOH received your child's initial application for health insurance on September 20, 2017.
- 3) Your child was determined conditionally eligible for CHP with a \$30.00 monthly premium, effective September 1, 2017, pending receipt of documentation to confirm your household income, his citizenship status, and his Social Security number.
- 4) According to your account, a CHP enrollment request was submitted on behalf of your child on September 20, 2017 and coverage through that plan became effective on September 1, 2017.
- 5) You testified that you never received an invoice from the health plan for your child's CHP premium.
- 6) You testified that you first contacted the health plan sometime after you received the October 18, 2017 eligibility determination notice to pay the premium. You testified that you were unable to pay the premium at that time, because the health plan could not find your child's enrollment.
- 7) You testified that you called the health plan again at the end of October 2018 to pay your child's CHP premium, but you were told you could not, because the premium amount had changed.
- 8) You testified that you thought you had time to pay your child's first premium payment, because "no one was making a big deal" about it.
- 9) You testified that you made the first premium payment to your child's health plan on [REDACTED] in the amount of \$30.00.
- 10) According to your account, the health plan initiated termination of your child's CHP enrollment on November 21, 2017.
- 11) Your child's enrollment was terminated, effective September 1, 2017.
- 12) According to your account, an updated application was submitted on your child's behalf on November 27, 2017.
- 13) Your child was determined eligible to enroll in a CHP plan, effective January 1, 2018.

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- 14) According to your account, a CHP enrollment request was submitted on behalf of your child on November 27, 2017 and coverage through that plan became effective January 1, 2018.
- 15) You testified that the premium payment you made in November 2017 was applied to the subsequent enrollment.
- 16) You testified that you requested reinstatement of your child's coverage for September through December 2017 from the health plan, but your request was denied.
- 17) You testified, and your account confirms, your child was without health coverage for the months of September 2017 through December 2017.
- 18) You testified that you had to pay out of pocket for medical costs for your child from the time he was uninsured, and you are seeking reinstatement of your child in his CHP plan for the months of September 2017 through December 2017.

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, 45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### 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 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 first issue is whether NYSOH has the authority to review the termination of your child’s Child Health Plus enrollment for failure to pay the premium by the payment deadline.

On September 21, 2017, NYSOH issued an enrollment notice confirming your child’s enrollment in a CHP plan with a \$30.00 monthly premium, effective September 1, 2017. The monthly premium was subsequently increased to \$60.00 as confirmed in the October 18, 2017 eligibility determination and enrollment confirmation notices.

According to your account, the health plan initiated termination of your child’s CHP enrollment on November 21, 2017. The disenrollment notice issued by NYSOH on November 22, 2017 indicated your child’s enrollment was terminated, effective September 1, 2017, because you did not pay the premium by the payment deadline. You appealed that disenrollment.

Pursuant to the regulations, the New York State of Health 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 by NYSOH to provide timely notice of an eligibility determination; and (4) a denial of a request for 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 child was properly terminated from his health plan for non-payment

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of premiums. Therefore, your appeal of the November 22, 2017 disenrollment notice is **DISMISSED** as a non-appealable issue.

However, during the hearing you testified that you never received an invoice from the health plan and that you attempted to pay the premium on multiple occasions, but you were unable to, because the health plan could not find your child's enrollment. Based on this testimony your case is **REFERRED** to Plan Management to investigate whether the health plan provided you with a timely invoice for your child's initial premium payment and whether system issues on the part of the health plan prevented you from timely making the initial premium payment.

The second issue is whether NYSOH properly determined your child's subsequent enrollment in a Child Health Plus plan became effective no earlier than January 1, 2018.

According to your account, you contacted NYSOH on November 27, 2017 to reenroll your child in a Child Health Plus plan. Coverage through that subsequent enrollment did not become effective until January 1, 2018. You appealed the effective date of that enrollment insofar as your child's coverage was not effective earlier than January 1, 2018.

According to the regulations, the date on which a Child Health Plus 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 health plan for your child on November 27, 2017, after the fifteenth day of the month, that plan properly became effective the first day of the second following month; that is, on January 1, 2018.

Therefore, the November 28, 2017 enrollment confirmation notice stating your child's enrollment in his Child Health Plus plan was effective January 1, 2018, is correct and is **AFFIRMED**.

## **Decision**

Your appeal on the issue of your child's CHP disenrollment for non-payment of premium as described in the November 22, 2017 disenrollment notice is **DISMISSED**.

The November 28, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is REFERRED to Plan Management to investigate whether the health plan provided you with a timely invoice for your child's first premium payment and whether systematic issues on the part of the health plan prevented you from making a timely first premium payment.

**Effective Date of this Decision:** March 23, 2018

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

This decision does not change your child's eligibility or the effective dates of his coverage.

Your child's CHP enrollment became effective January 1, 2018.

Nothing in this decision is to be construed as preventing the health plan from reinstating your child's coverage in accordance with their policies and procedures.

### **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 appeal 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 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 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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Your appeal on the issue of your child's CHP disenrollment for non-payment of premium as described in the November 22, 2017 disenrollment notice is **DISMISSED**.

The November 28, 2017 enrollment confirmation notice is **AFFIRMED**.

Your case is **REFERRED** to Plan Management to investigate whether the health plan provided you with a timely invoice for your child's first premium payment and whether systematic issues on the part of the health plan prevented you from making a timely first premium payment.

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 does not change your child's eligibility or the effective dates of his coverage.

Your child's CHP enrollment became effective January 1, 2018.

### **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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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 okyerE 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.