



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

## Notice of Decision

Decision Date: March 27, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026050

[REDACTED]

Dear [REDACTED],

On February 22, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 5, 2016 modification to terminated policy 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: March 27, 2018

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000026050

[REDACTED]

## 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 three oldest children were disenrolled from their Child Health Plus (CHP) plan effective February 29, 2016, resulting in a gap in coverage during the month of March 2016?

## Procedural History

According to your NYSOH account, all four of your children were found eligible for and enrolled in a CHP Plan as of January 1, 2016.

On March 4, 2016, NYSOH issued an eligibility determination notice stating that your three oldest children were eligible to enroll in a CHP plan with a \$9.00 monthly premium as April 1, 2016. Your youngest child was not included in this notice.

Also on March 4, 2016, a plan enrollment notice was issued confirming that your three oldest children were enrolled in a CHP plan as of April 1, 2016. Your youngest child was not included in this notice.

Also on March 4, 2016, a disenrollment notice was issued stating that all four of your children's CHP coverages would end on March 31, 2016.

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On November 5, 2016, NYSOH issued a modification to terminated policy notice stating that the last day of coverage for all four of your children had been changed to February 29, 2016.

On December 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the change to your children's CHP end date, insofar as it referred only to your three oldest children.

On February 22, 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 are only appealing your three oldest children's gap in coverage for the month of March 2016.
- 2) According to your NYSOH account and testimony, all four of your children were found eligible for CHP as of January 1, 2016. On March 3, 2016, you contacted NYSOH to terminate health insurance for your youngest child as of March 31, 2016.
- 3) You testified that, at the time you called to terminate your youngest child's coverage in CHP, you were advised by a NYSOH representative that the only way this could be done was to disenroll all four of your children and just reenroll your oldest three. As such, this was how you proceeded.
- 4) You testified that, because your youngest child had urgent medical needs, his health coverage outside of NYSOH needed to end before his new health plan would begin.
- 5) According to Incident [REDACTED], you called NYSOH on March 11, 2016 to request that your youngest child's disenrollment from his CHP plan be backdated to February 29, 2016, so that his new health coverage could begin.
- 6) According to the Note Tab, dated September 29, 2016, only your youngest child was supposed to be "retro dis-enrolled due to coverage outside of the Market Place."
- 7) Subsequently, on November 4, 2016, all four of your children were disenrolled from their CHP plan as of February 29, 2016, resulting in a

gap in coverage for the month of March 2016 for your three oldest children.

- 8) You testified that you need your three oldest children's CHP plan reinstated for March 2016, because you have medical bills for them that month.

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

## **Applicable Law and Regulations**

### Timely Appeal

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

### 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)).

## **Legal Analysis**

Initially, it is noted that this appeal, which has come before the NYSOH Appeals Unit, is untimely. For an appeal to have been timely on the issue of your three oldest children's disenrollment, as addressed in the November 5, 2016 notice, an appeal should have been filed by January 4, 2017. According to the credible evidence in the record, you did not contact NYSOH until June 19, 2017 to file a formal complaint and a formal appeal was not filed until December 19, 2017. These dates are well beyond 60 days from the November 5, 2016 disenrollment notice. Nonetheless, based on the facts of this specific case and in the interest of justice, we will reach the merits of this appeal.

The issue under review is whether NYSOH properly retroactively disenrolled your three oldest children from their CHP plan effective February 29, 2016, resulting in a gap in their coverage during the month of March 2016.

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).

According to your NYSOH account and testimony, all four of your children were found eligible for CHP as of January 1, 2016. On March 3, 2016, you contacted NYSOH to terminate health insurance for your youngest child as of March 31, 2016. You testified that, at the time you called to terminate your youngest child's coverage in CHP, you were advised by a NYSOH representative that the only way this could be done was to disenroll all four of your children and just reenroll your oldest three. As such, this was how you proceeded. Your three oldest children were found eligible for and re-enrolled in CHP as of April 1, 2016 (initially with no gap in health coverage).

Subsequently, you called NYSOH on March 11, 2016, to request that your youngest child's disenrollment from his CHP plan be backdated as of February 29, 2016, so that his new health coverage could begin. On November 4, 2016, all four of your children were disenrolled from their CHP plan as of February 29, 2016, resulting in a gap in coverage for the month of March 2016 for your three oldest children.

The record reflects that you requested that only your youngest child's CHP plan be retroactively terminated and that your request to have only your youngest child terminated as of February 29, 2016 was granted by NYSOH. However, in effect, the system disenrolled all four of your children, as stated in the November 5, 2016 notice. Therefore, based on the specific facts of this matter it is concluded that your other three children's disenrollment was an error attributable to NYSOH's system.

Further, to remain enrolled until the last day of the twelfth month following January 1, 2016 enrollment start date, your three children must continue to meet the non-financial requirements. There is nothing in the record to indicate that they were no longer residents of New York State, had gained access to or obtained other health insurance coverage, or became eligible for Medicaid.

Since NYSOH erred in terminating your three oldest children's CHP coverage on February 29, 2017 and they should have remained eligible until the last day of the twelfth month following their enrollment, your three oldest children should have had CHP coverage in March 2016. Therefore, the November 5, 2016 disenrollment notice is RESCINDED in part, insofar as your three oldest children were terminated from their CHP plans as of February 29, 2017.

Your case is RETURNED to NYSOH to reinstate your three oldest children in their CHP plan for the month of March 2016, and to notify you accordingly.

## **Decision**

The November 5, 2016 disenrollment notice is RESCINDED in part, insofar as your three oldest children were terminated from their CHP plans as of February 29, 2017

Your case is RETURNED to NYSOH to reinstate your three oldest children in their CHP plan for the month of March 2016, and to notify you accordingly.

**Effective Date of this Decision:** March 27, 2018

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

By this decision, your three oldest children should not have been retroactively terminated from their CHP plan as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your three oldest children in their CHP plan for the month of March 2016, and to notify you accordingly.

NYSOH is directed to notify you once this has been completed.

You will be responsible to pay the health plan directly your children's monthly premiums due for March 2016 coverage to resume.

## **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:

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 1-800-318-2596
- 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**

The November 5, 2016 disenrollment notice is RESCINDED in part, insofar as your three oldest children were terminated from their CHP plans as of February 29, 2017

Your case is RETURNED to NYSOH to reinstate your three oldest children in their CHP plan for the month of March 2016, and to notify you accordingly.

By this decision, your three oldest children should not have been retroactively terminated from their CHP plan as of February 29, 2016.

Your case is being sent back to NYSOH to reinstate your three oldest children in their CHP plan for the month of March 2016, and to notify you accordingly.

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).



NYSOH is directed to notify you once this has been completed.

You will be responsible to pay the health plan directly your children's monthly premiums due for March 2016 coverage to resume.

### **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)

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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 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 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.

### **אַײַדיש (Yiddish)**

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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.

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).