



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

## Notice of Decision

Decision Date: March 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026410

[REDACTED]

Dear [REDACTED]

On February 28, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 28, 2017 eligibility determination and 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 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 § 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 9, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026410

[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 youngest child's eligibility for Child Health Plus and enrollment in a Child Health Plus plan was effective February 1, 2018?

## Procedural History

On February 14, 2017, NYSOH issued an eligibility determination notice stating that your youngest child (child) was eligible for Medicaid, effective December 1, 2016.

On October 24, 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 your child would qualify for financial help paying for his health coverage, and that you needed to update your account by December 15, 2017 or he might lose the financial assistance he was currently receiving.

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

On December 17, 2017, NYSOH issued a discontinuance notice 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. Your child was also not eligible to enroll in a qualified health plan at full cost. This was because there was

no response to the renewal notice within the required time frame. That notice stated that your child's eligibility ended effective January 1, 2018.

On December 18, 2017, NYSOH issued a disenrollment notice stating that your youngest child's enrollment with his Medicaid Managed Care plan ended on December 31, 2017.

On December 27, 2017, NYSOH received your child's updated application for health insurance.

On December 28, 2017, NYSOH issued two notices. One notice was an eligibility determination notice stating that your child was eligible for Child Health Plus with a \$15.00 monthly premium, effective February 1, 2018. The other notice was an plan enrollment notice, which confirmed your child's enrollment in a Child Health Plus plan beginning February 1, 2018.

Also on December 28, 2017, you spoke to NYSOH's Account Review Unit and appealed your child's eligibility and enrollment in Child Health Plus insofar as it began on February 1, 2018, and not January 1, 2018.

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 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, you receive all of your notices from NYSOH via electronic mail.
- 2) You testified that you do not recall whether you received an electronic alert regarding a renewal notice in your NYSOH account.
- 3) You testified that you did not receive a renewal notice by regular mail.
- 4) You testified that you met with an application counselor to renew your own health insurance for 2018, at which time you became aware your child's coverage would end December 31, 2018.
- 5) You testified that you updated an application for health insurance for your child that day.
- 6) According to your NYSOH account, on December 27, 2017, NYSOH received your updated application for health insurance for your child.

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- 7) You testified that you are seeking to have your child enrolled in his Child Health Plus plan as of January 1, 2018.
- 8) 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”.
- 9) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 24, 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)).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13 ADM-03(III)(F)).

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Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

### 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 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).

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## Legal Analysis

The issue under review is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan was effective February 1, 2018.

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

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 October 24, 2017 renewal notice stated that there was not enough information to determine whether your child was eligible to continue his financial assistance for health insurance, and additional information was required by December 15, 2017, or his financial assistance might end.

Because there was no timely response to this notice, your child was terminated from his Medicaid Managed Care plan effective December 31, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you did not recall receiving any electronic alert regarding the renewal notice that directed you to update the information in your NYSOH account. You credibly testified that you met with an application counselor to renew your own health insurance for 2018, at which time you became aware your child's coverage would end December 31, 2018. 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 December 27, 2017, and therefore we must assume 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 January 1, 2018.

Therefore, the December 28, 2017 eligibility determination notice is MODIFIED to state that your child's eligibility for Child Health Plus was effective January 1, 2018.

The December 28, 2017 plan enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective January 1, 2018.

## **Decision**

The December 28, 2017 eligibility determination notice is MODIFIED to state that your youngest child's eligibility for Child Health Plus was effective January 1, 2018.

The December 28, 2017 plan enrollment notice is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate changing your youngest child's eligibility and enrollment in Child Health Plus to January 1, 2018, and to notify you accordingly.

**Effective Date of this Decision:** March 9, 2018

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

Your youngest child's eligibility and enrollment in his Child Health Plus plan should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH to enroll your youngest child in Child Health Plus, and in his Child Health Plus plan as of January 1, 2018. NYSOH will notify you once this is done.

You are responsible for paying your youngest child's monthly premium to his Child Health Plus plan for the month of January 2018.

## **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.

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).



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

### **Summary**

The December 28, 2017 eligibility determination notice is MODIFIED to state that your youngest child's eligibility for Child Health Plus was effective January 1, 2018.

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).

The December 28, 2017 plan enrollment notice is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate changing your youngest child's eligibility and enrollment in Child Health Plus to January 1, 2018, and to notify you accordingly.

Your youngest child's eligibility and enrollment in his Child Health Plus plan should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH to enroll your youngest child in Child Health Plus, and in his Child Health Plus plan as of January 1, 2018. NYSOH will notify you once this is done.

You are responsible for paying your youngest child's monthly premium to his Child Health Plus plan for the month of January 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)**

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&etumi 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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