



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

## Notice of Decision

Decision Date: May 24, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026840



Dear [REDACTED]

On March 26, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2017 disenrollment 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: May 24, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP0000000026840



## 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 whether NYSOH properly terminated your children's Child Health Plus plan for non-payment of premium?

## Procedural History

On November 28, 2017, NYSOH issued an eligibility determination notice, based on your November 27, 2017 application, stating in part, that your children were eligible for Child Health Plus (CHP) effective January 1, 2018.

On December 12, 2017, NYSOH issued an enrollment notice, based on your December 11, 2017 plan selection, stating in part, that your children were enrolled in a CHP plan with a \$9.00 monthly premium each, and that this enrollment in the plan would start January 1, 2018.

On December 16, 2017, NYSOH issued a disenrollment notice stating that your children's enrollment in their CHP plan was terminated, effective January 1, 2018, because a premium payment had not been received by the health plan.

On January 5, 2018, NYSOH received your updated selection of your children's CHP plan, with a plan enrollment start date of February 1, 2018.

Also on January 5, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan insofar as they did not have coverage for the month of January 2018.

On February 7, 2018, NYSOH issued an eligibility determination notice, based on your February 6, 2018 updated application, stating in part, that your children were eligible for Medicaid, effective February 1, 2018. The notice stated that your children were no longer eligible for CHP as of January 31, 2018.

Also on February 7, 2018, NYSOH issued an enrollment notice, based on your plan selection on February 6, 2018, stating that your children were enrolled in a Medicaid Managed Care plan as of February 1, 2018.

On March 26, 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 children's disenrollment from their CHP plan for the month of January 2018.
- 2) Your children were enrolled into a CHP plan with Fidelis Care, effective January 1, 2018.
- 3) You testified that you called Fidelis to make a premium payment and you were told there was no record of the children being enrolled in their health plan and they would not take your premium payment.
- 4) You testified that at the same time you were receiving premium invoices from HealthFirst for health insurance for the children because their records showed the children still had coverage with them.
- 5) You testified that you sent \$18.00 to Fidelis and that they never returned that premium payment to you.
- 6) Your children were disenrolled from their CHP plan with Fidelis, effective January 1, 2018 and did not have health insurance for the month of January 2018.
- 7) According to your NYSOH account and your testimony, on February 6, 2018, your family's application for financial assistance was updated and your children were determined eligible for Medicaid effective

February 1, 2018. The children were enrolled in a Medicaid Managed Care plan with a plan enrollment start date of February 1, 2018. You testified that you are satisfied with this determination and the start date of the Medicaid Managed Care plan.

- 8) You testified that there are no medical bills incurred during the month of January 2018 when the children did not have insurance coverage.
- 9) You testified that you are concerned with a tax penalty for not having health insurance for the children in the month of January 2018.

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 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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) (NY Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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 Child Health Plus 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 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 terminated your children’s CHP plan for non-payment of premium effective, January 1, 2018, such that your children did not have health insurance for the month of January 2018.

On December 11, 2017 your children were enrolled in a CHP plan with Fidelis Care, effective January 1, 2018.

You testified that you called Fidelis Care to make a premium payment and you were told there was no record of the children being enrolled in their health plan. You also testified that at the same time period you were receiving premium invoices from HealthFirst for health insurance for the children. You testified that you sent \$18.00 to Fidelis Care to cover a month of CHP premium for the two children and that Fidelis never returned that premium payment to you.

On December 16, 2018, NYSOH issued a notice stating that your children were disenrolled from their CHP plan with Fidelis Care for non-payment of premiums, effective January 1, 2018.

NYSOH 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 to provide timely notice of an eligibility determination and (4) a denial of 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 or not your children were properly terminated from their CHP plan with Fidelis Care for non-payment of premiums. Therefore, your appeal of the December 16, 2017 disenrollment notice is DISMISSED as a non-appealable issue.

The record reflects that you updated your account on February 6, 2018 and the children were determined eligible for Medicaid and were enrolled in a Medicaid Managed Care plan with a plan enrollment start date of February 1, 2018. You testified that you are satisfied with this determination and the start date of the Medicaid Managed Care plan for the children. As such, this decision will not address the issue of the start date of your children's eligibility for Medicaid and their enrollment in their Medicaid Managed Care plan.

You testified that you are concerned about a tax penalty because the children did not have health insurance for the month of January 2018. Sometimes after an appeal decision, an appellant can claim an exemption from the requirement to have health insurance. You might qualify for a health coverage exemption in 2018 if you didn't have health coverage while you were waiting for an appeal decision about coverage eligibility or savings **and** your appeal was eventually successful.

You must claim this exemption through the United States Department of Health and Human Services (HHS). Currently, NYSOH does not accept hardship exemption applications.

You will find the information you need to claim the exemption due to an appeal decision at <https://www.healthcare.gov/exemptions-tool/#/results/2016/details/eligible-based-on-appeal>. You can also call 1-800-318-2596.

**Important:** If you do not get a response from HHS to your exemption application in time to file your tax return, write the word "pending" in column "c" and file your return. If HHS does not approve your exemption, you will need to file an amended return later.

You testified that you paid Fidelis Care \$18.00 for premiums for the two children and you have never received a refund of that money. Therefore, your case is RETURNED to NYSOH plan management unit to assist you in obtaining a refund of any payment you made for coverage not provided.

## **Decision**

Your appeal of the insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective January 1, 2018, is DISMISSED as a non-appealable issue.

Your case is RETURNED to NYSOH plan management unit to assist you in obtaining a refund of any payment you made for coverage not provided.

**Effective Date of this Decision:** May 24, 2018

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

This decision does not change your children's eligibility.

You children did not have coverage in their CHP plan for the month of January 2018.

Your case is RETURNED to NYSOH plan management unit to assist you in obtaining a refund of any payment you made for coverage not provided.

## **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 case 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.

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).



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

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).

## **Summary**

Your appeal of the insurer's termination of your children's enrollment in their CHP plan for non-payment of premiums, effective January 1, 2018, is **DISMISSED** as a non-appealable issue.

This decision does not change your children's eligibility.

You children did not have coverage in their CHP plan for the month of January 2018.

Your case is **RETURNED** to NYSOH plan management unit to assist you in obtaining a refund of any payment you made for coverage not provided.

## **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।

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).

### **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 मदद 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. y&b&tumi ama wo obi a okyer& 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.

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).