



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

## Notice of Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027264



Dear [REDACTED]

On April 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 31, 2017 disenrollment and January 9, 2018 plan enrollment 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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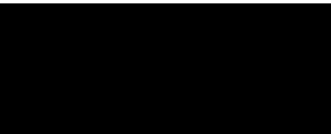


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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027264



## Issues

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

Did NY State of Health (NYSOH) properly terminate your oldest child's Child Health Plus plan for non-payment of premium, effective December 31, 2017?

Did NYSOH properly determine that your oldest child's re-enrollment in his Child Health Plus plan was effective February 1, 2018?

## Procedural History

On December 21, 2016, NYSOH issued an eligibility determination notice stating your oldest child (child) was eligible for Medicaid, effective December 1, 2016. You subsequently enrolled your child in a Medicaid Managed Care plan, effective February 1, 2017.

On September 21, 2017, NYSOH issued a renewal notice stating it was time to renew your child's coverage for 2018. The notice stated, based on federal and state data sources, a decision could not be made about whether he still qualified for financial assistance. The notice directed you to update your account by November 15, 2017.

On November 14, 2017, you submitted an updated application for your child.

On November 15, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for a full-cost Child Health Plus plan, effective December

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1, 2017. The notice stated your child no longer qualified for Medicaid as of November 30, 2017.

On November 15, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$209.57 per month, effective December 1, 2017.

On January 8, 2018, NYSOH received your child's updated application.

On January 9, 2018, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus for a cost of \$60.00 per month, effective February 1, 2018.

On January 9, 2018, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$60.00 per month, effective February 1, 2018.

On January 16, 2018, you spoke to NYSOH's Account Review Unit and appealed the February 1, 2018 start date of your child's Child Health Plus plan requesting a start date of January 1, 2018.

Your hearing was scheduled for March 30, 2018, at 2:00 p.m. That day, a Hearing Officer from NYSOH Appeals Unit contacted you and placed you under oath. While under oath, you testified you were not prepared for the hearing and that you did not receive a notice of hearing. An adjournment was granted for your appeal to be heard at a later date and time.

On April 27, 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 appealing your child's disenrollment from his Child Health Plus plan and new enrollment start date of February 1, 2018, requesting a January 1, 2018 start date instead.
- 2) Your child was enrolled into a Child Health Plus plan for a cost of \$209.57 per month, effective December 1, 2017.
- 3) You testified that you believe you missed a premium invoice that was mailed to your house by your health plan in December 2017.

- 4) You testified you did not see the letter because you did not return to your home until after [REDACTED] in January 2018.
- 5) You testified you did not realize your child had been disenrolled until you took him to the doctor in the [REDACTED] January 2018.
- 6) Your NYSOH account shows your child was disenrolled as of December 31, 2017, from his Child Health Plus plan.
- 7) There is no record that NYSOH issued a disenrollment notice in your account informing you that your child was disenrolled for nonpayment of premium.
- 8) Your NYSOH account shows you updated your child's application and re-enrolled him into a Child Health Plus plan on January 8, 2018.
- 9) Your application states you and your child reside in [REDACTED], NY.

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

## **Applicable Law and Regulations**

### De Novo Review

NYSOH's Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

### 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) an eligibility determination for an exemption; (4) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) 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 first issue under review is whether NYSOH properly terminated your child’s Child Health Plus plan, effective December 31, 2017.

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On November 15, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan for a cost of \$209.57 per month, effective December 1, 2017.

Although there is no notice in your NYSOH account stating your child was disenrolled from his Child Health Plus plan for non-payment of premium, effective December 31, 2017, you testified that he was disenrolled because you failed to make a premium payment to his health plan on time. It is also shown in your NYSOH account that your child's enrollment in a Child Health Plus plan ended, effective December 31, 2017. Here, the lack of a notice of disenrollment on this issue does not prevent the Appeals Unit from reviewing your request or constitute material error. Therefore, the issue under review is whether your child was properly disenrolled for non-payment of premium.

You testified you believe you missed a premium invoice that was mailed to your house by your health plan in December 2017. You testified you did not see the letter because you did not return to your home until after the [REDACTED] in January 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) an eligibility determination for an exemption, (4) a failure to provide timely notice of an eligibility determination and (5) 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 child was properly terminated from his Child Health Plus plan for non-payment of premiums.

Therefore, your appeal of your child's December 31, 2017 disenrollment is **DISMISSED** as a non-appealable issue.

If you have not already been assisted with your current coverage issue, please contact your health plan directly.

In addition, since your issue concerns a health insurer and/or payment, reimbursement, coverage, benefits, rates and premiums, you can contact NY Department of Financial Services at their Consumer Hotline at (800) 342-3736 (Monday through Friday, 8:30 AM to 4:30 PM); or locally to (212) 480-6400; or you can file a complaint at <http://www.dfs.ny.gov/consumer/fileacomplaint.htm>

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

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You testified you did not realize your child had been disenrolled until you took him to the doctor in the [REDACTED] January 2018. You contacted NYSOH on January 8, 2018, to re-enroll your child into a Child Health Plus plan.

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 to the end of the month goes into effect on the first day of the second following month.

As you contacted NYSOH to re-enroll your child into a Child Health Plus plan on January 8, 2018, his re-enrollment should have taken effect the first day of the first month after January 2018; that is, on February 1, 2018.

Therefore, the January 9, 2018 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan was effective February 1, 2018, was proper and is AFFIRMED.

## **Decision**

Your appeal of your child's December 31, 2017 disenrollment is DISMISSED as a non-appealable issue.

The January 9, 2018 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan was effective February 1, 2018, was proper and is AFFIRMED.

**Effective Date of this Decision:** May 18, 2018

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

Your child's enrollment in his Child Health Plus plan was effective February 1, 2018.

## **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

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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.

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

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- By fax: 1-855-900-5557

## **Summary**

Your appeal of your child's December 31, 2017 disenrollment is DISMISSED as a non-appealable issue.

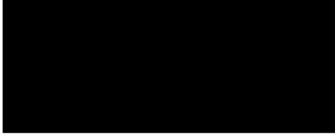
The January 9, 2018 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan was effective February 1, 2018, was proper and is AFFIRMED.

Your child's enrollment in his Child Health Plus plan was effective February 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)**

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.

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