



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

## Amended Notice of Decision

*This Decision is amended to reflect the appropriate changes and outcome as italicized within.*

Decision Date: April 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027443

[REDACTED]

[REDACTED]

On April 3, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 21, 2017 enrollment confirmation 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.

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).

## **Legal Authority**

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) §155.545.

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## Decision

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Decision Date: April 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027443



## 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 enrollment *in her Child Health Plus plan began January 1, 2018?*

## Procedural History

On September 18, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was eligible for Medicaid, effective September 1, 2016. Your youngest child subsequently enrolled into a Medicaid Managed Care plan.

On August 2, 2017, NYSOH issued a renewal notice, stating that it was time to renew your youngest child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not determine whether your youngest child would qualify for financial help paying for her health coverage, and that you needed to update your account by September 15, 2017 or your youngest child might lose the financial assistance that she was currently receiving.

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

On September 17, 2017, NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, Child Health Plus, or to

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receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your youngest child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed your renewal within the required time frame. Your youngest child's eligibility ended effective September 30, 2017.

Also on September 17, 2017, NYSOH issued a disenrollment notice stating that your youngest child's Medicaid Managed Care plan coverage was ending September 30, 2017.

On November 20, 2017, NYSOH received your updated application for health insurance.

On November 21, 2017, NYSOH issued an eligibility redetermination notice stating that your youngest child was eligible for Child Health Plus with no monthly premium, and that her plan start date was January 1, 2018.

Also on November 21, 2017, a *plan* enrollment notice was issued stating that you had selected a Child Health Plus plan *for your youngest child*, and that the effective date of that plan was January 1, 2018.

On January 18, 2018, you spoke to NYSOH's Account Review Unit and appealed the *plan* enrollment notice insofar as it began your youngest child's health insurance coverage on January 1, 2018, and not October 1, 2017.

On April 3, 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 your testimony*, you receive notices from NYSOH by electronic mail.
- 2) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to update your application to renew your youngest child's eligibility. You also did not receive any renewal notice by regular mail.
- 3) You testified that you did not know that you needed to update your account until approximately November 20, 2017, when you received a bill from your youngest child's doctor stating that *she* did not have health insurance coverage.

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- 4) *According to your NYSOH account*, on November 20, 2017, NYSOH received your updated application for health insurance.
- 5) Your youngest child was determined eligible for Child Health Plus, effective January 1, 2018.
- 6) You testified that you are seeking that your youngest child be enrolled in her *Child Health Plus* plan as of October 1, 2017.
- 7) 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”.
- 8) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the August 2, 2017 renewal notice.

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

## **Applicable Law and Regulations**

### *Annual Eligibility Redetermination*

*Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).*

*NYSOH must send an annual renewal notice that contains the individual’s projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual’s eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).*

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## 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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).*

## 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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your youngest child’s enrollment *in her Child Health Plus plan began January 1, 2018*. Your youngest child was originally found eligible for Medicaid effective September 1, 2016. You subsequently enrolled her into a Medicaid Managed Care plan.

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Generally, NYSOH must redetermine a qualified individual's eligibility for *financial assistance, including CHP*, 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 August 2, 2017 renewal notice stated that there was not enough information to determine whether your youngest child was eligible to continue her financial assistance for health insurance, and that you needed to supply additional information by September 15, 2017, or your youngest child's financial assistance might end.

Because there was no timely response to this notice, your youngest child's coverage in her Medicaid Managed Care plan ended effective September 30, 2017.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive any electronic alert regarding the notice that directed you to update the information in your NYSOH account. 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.

*NYSOH is required to send applicants proper notice in order for them to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account in order for your child to continue to receive financial assistance and health insurance through NYSOH.*

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to update your account.

You first renewed your *youngest child's* eligibility for financial assistance through NYSOH for the upcoming coverage year on November 20, 2017. 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 by *September 15, 2017*, as stated in the *August 2, 2017* renewal notice.

*Had the information been submitted by the September 15, 2017 deadline, your youngest child's eligibility would have been timely redetermined and you could have selected a Child Health Plus plan for her enrollment to begin on October 1, 2017, and without any gap in coverage.*



Therefore, the November 21, 2017 *plan* enrollment notice is MODIFIED to state that your youngest child's enrollment in her *Child Health Plus* plan was effective October 1, 2017.

## **Decision**

The November 21, 2017 *plan* enrollment notice is MODIFIED to state that your youngest child's enrollment in her *Child Health Plus* plan was effective October 1, 2017.

Your case is RETURNED to NYSOH to facilitate correcting your youngest child's enrollment in her *Child Health Plus* plan to the appropriate date, *and to notify you accordingly.*

**Effective Date of this Decision:** April 25, 2018

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

Your youngest child's enrollment in her *Child Health Plus* plan should have been effective as of October 1, 2017, *but for NYSOH's failure to give you adequate notice.*

Your case is being sent back to NYSOH to *enroll* your youngest child in her *Child Health Plus* plan as of October 1, 2017. *NYSOH will notify you once this is done.*

*Since you have no premium responsibility, nothing further is required of you.*

## **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

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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 November 21, 2017 *plan* enrollment notice is MODIFIED to state that your youngest child's enrollment in her Child Health Plus plan was effective October 1, 2017.

Your case is RETURNED to NYSOH to facilitate correcting your youngest child's enrollment in her *Child Health Plus* plan to the appropriate date, *and to notify you accordingly*.

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Your youngest child's enrollment in her *Child Health Plus* plan should have been effective as of October 1, 2017, *but for NYSOH's failure to give you adequate notice.*

Your case is being sent back to NYSOH to *enroll* your youngest child in her *Child Health Plus plan* as of October 1, 2017. *NYSOH will notify you once this is done.*

*Since you have no premium responsibility, nothing further is required of you.*

## **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 srε wo, frε 1-855-355-5777. ye&εtumi 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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