



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027846



Dear [REDACTED]

On April 6, 2018, you appeared by telephone, with the aid of Russian Language interpreter # [REDACTED] at a hearing on your appeal of NY State of Health's October 28, 2017 automatic renewal notice and the January 18, 2018 and January 27, 2018 eligibility determination 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  
PO 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 (CFR) § 155.545(b).

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).

This page intentionally left blank.



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
PO Box 11729  
Albany, NY 12211

## Decision

Decision Date: May 16, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000027846



## Issues

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

Was your appeal of the October 28, 2017 automatic renewal notice timely?

Did NY State of Health (NYSOH) properly determine your child's eligibility for a Child Health Plus subsidy became effective no earlier than March 1, 2018?

## Procedural History

On December 12, 2016, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus (CHP), with a \$9.00 monthly premium, effective January 1, 2017. Subsequently, you enrolled your child into a CHP plan.

On October 28, 2017, NYSOH issued a notice stating your child's coverage was being automatically renewed for the upcoming coverage year. The notice stated that, based on income information received from state and federal data sources, your child was eligible for a full-pay CHP plan, effective January 1, 2018. The notice stated that any help you were receiving to pay for your child's CHP coverage would end on December 31, 2017.

On November 17, 2017, NYSOH issued an enrollment notice confirming your child had been automatically reenrolled in the same health plan, at full cost, 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).

On January 17, 2018, NYSOH received an updated application submitted on behalf of your child.

On January 18, 2018, NYSOH issued an eligibility determination notice stating your child was eligible for CHP with a \$9.00 monthly premium, effective March 1, 2018.

Also on January 18, 2018, NYSOH issued an enrollment notice confirming your child was enrolled in a CHP plan with a \$9.00 monthly premium, effective March 1, 2018.

On January 26, 2018, NYSOH systematically redetermined your child's eligibility. That day a preliminary eligibility determination was prepared finding your child eligible for CHP with a \$9.00 monthly premium, effective March 1, 2018.

Also on January 26, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your child was not eligible for a CHP subsidy for the months of January or February 2018.

On January 27, 2018, NYSOH issued an eligibility determination notice stating your child was eligible for CHP with a \$9.00 monthly premium, effective March 1, 2018.

Also on January 27, 2018, NYSOH issued an enrollment notice confirming your child was enrolled in a CHP plan with a \$9.00 monthly premium, effective March 1, 2018.

On April 6, 2018, you had a telephone hearing, with the aid of a Russian Language interpreter, with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you are only appealing your child's eligibility to receive a CHP subsidy for the months of January and February 2018.
- 2) Your child was enrolled in a CHP plan with a \$9.00 monthly premium, effective January 1, 2017, following a December 11, 2016 online application requesting automatic renewal of your family's coverage for 5 years. Your child was subsequently enrolled into a CHP plan.
- 3) NYSOH issued a notice on October 28, 2017 indicating your child's eligibility for the upcoming coverage year was being automatically

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).

renewed based in income information received from state and federal data based.

- 4) The October 28, 2017 renewal notice indicated your child was eligible for a full cost CHP plan, effective January 1, 2018, and that any financial assistance she was receiving would end on December 31, 2017.
- 5) On November 17, 2017, NYSOH issued an enrollment notice confirming your child was being reenrolled in her same CHP plan for 2018, but that it was at the full cost of \$209.57, effective January 1, 2018.
- 6) You testified, and your account confirms, you received your notices from NYSOH by U.S. mail.
- 7) You testified that you did not receive the October 28, 2017 renewal notice or the November 17, 2017 enrollment confirmation notice.
- 8) Your account confirms that both notices were issued to the mailing address listed on the account at that time, [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] - [REDACTED]
- 9) There is no record of any notice issued to you by NYSOH being returned as undeliverable.
- 10) You testified that you have issues receiving mail at your home, because there is a [REDACTED] [REDACTED] [REDACTED] [REDACTED] and a [REDACTED] [REDACTED] and your mailman often confuses the addresses and delivers the mail to the wrong home.
- 11) You testified that you did not learn your child's CHP subsidy had been revoked until you received a letter from the health plan in December 2017. You testified that you subsequently called the health plan and you were referred to NYSOH.
- 12) On January 17, 2018, NYSOH received an updated application on behalf of your child attesting to annual expected household income for 2018 of \$36,400.00.
- 13) Your child was determined eligible for CHP with a \$9.00 monthly premium, effective March 1, 2018.
- 14) You appealed insofar as your child was not eligible for a CHP subsidy in January or February 2018.
- 15) Your account confirms that your address was updated on January 19, 2018 adding "[REDACTED] [REDACTED]" to the address.

- 16) You testified that you have lived at the same address for 15 years and the issue is not with the [REDACTED], but rather the mailman not recognizing the difference between the different addresses

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

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)).

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 - Eligibility

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP 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 PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

### Child Health Plus – Effective Dates

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

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).

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).

## **Legal Analysis**

The first issue is whether your appeal of the October 28, 2017 automatic renewal notice was timely.

On October 28, 2017, NYSOH issued a notice indicating your child’s coverage for 2018 was being automatically renewed and that based on income information from state and federal data sources, your child was eligible for a full cost CHP plan, effective January 1, 2018. The notice indicated that that any financial assistance your child was receiving would end on December 31, 2017. That further notice stated that if you wanted to make changes to your account, to do so between November 16, 2017 and December 15, 2017 for January 1, 2018 eligibility. Your account confirms that no changes were made to your account by December 15, 2017; therefore, the eligibility was implemented January 1, 2018.

You are appealing your child’s eligibility for financial assistance for the months of January and February 2018. Since your account confirms that there were no updates made to your account between the October 28, 2017 automatic renewal notice and December 15, 2017, the October 28, 2017 renewal notice provided your child’s eligibility for January and February 2018. Therefore, that is the determination at issue.

Pursuant to the above cited regulations, individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

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).

For an appeal to have been valid on the issue of your child's eligibility for the months of January and February 2018, as stated in the October 28, 2017 automatic renewal notice, an appeal should have been filed by December 27, 2017. The record reflects that the appeal in this matter was not filed until January 26, 2018, after the 60-day timeframe in which to appeal the October 28, 2017 eligibility determination had passed.

It is noted that you testified you did not receive either the October 28, 2017 automatic renewal notice or the November 17, 2017 enrollment confirmation notice. However, you testified, and your account confirms, you receive your notices from NYSOH by U.S. mail. Additionally, you confirmed that the mailing address listed on the notices was your correct mailing address and there is no record of any notice issued to you by NYSOH being returned as undeliverable. Although you testified that you have issues receiving mail at your home address, the evidence establishes that the relevant notices were properly issued to the mailing address listed on your account. Therefore, the competent evidence of record supports a finding that NYSOH provided you with adequate notice of the change in your child's eligibility for 2018, notwithstanding your actual receipt of the notices.

Since the evidence establishes that you did not appeal the October 28, 2017 automatic renewal notice within the 60-day regulatory time frame and there is no evidence in the record to justify tolling the deadline, your appeal of the December 31, 2017 termination of your child's eligibility for financial assistance must be **DISMISSED**.

The second issue under review is whether NYSOH properly determined your child's eligibility for a Child Health Plus subsidy became effective no earlier than March 1, 2018.

An updated application for financial assistance was submitted on your child's behalf on January 17, 2018, attesting to annual expected household income for 2018 of \$36,400.00. Based on that application, your child was determined eligible for CHP with a \$9.00 monthly premium, effective March 1, 2018. You appealed insofar as your child was not eligible for a CHP subsidy for the months of January and February 2018.

Pursuant to the regulations, a child's period of eligibility for CHP 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 fifteenth of the month; applications received after the fifteenth day of the month will be processed for the first day of the second following month.

Since the evidence establishes that you did not update the application until January 17, 2018, after the fifteenth day of the month, the resulting eligibility



could not become effective until the first day of the second following month; that is on March 1, 2018.

Therefore, the January 18, 2018 and January 27, 2018 eligibility determination notices, to the extent they stated your child's eligibility to receive a CHP subsidy was effective March 1, 2018, were correct and are AFFIRMED.

## **Decision**

Your appeal of the October 28, 2017 automatic renewal notice is DISMISSED.

The January 18, 2018 and January 27, 2018 eligibility determination notices, to the extent they state your child's CHP subsidy was effective March 1, 2018, are AFFIRMED.

**Effective Date of this Decision:** May 16, 2018

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

This decision does not change your child's eligibility.

Your child's eligibility for a CHP subsidy ended on December 31, 2017 and did not resume until March 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 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 appeal 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

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).

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  
PO Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

Your appeal of the October 28, 2017 automatic renewal notice is DISMISSED.

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 January 18, 2018 and January 27, 2018 eligibility determination notices, to the extent they state your child's CHP subsidy was effective March 1, 2018, are **AFFIRMED**.

This decision does not change your child's eligibility.

Your child's eligibility for a CHP subsidy ended on December 31, 2017 and did not resume until March 1, 2018.

## **Legal Authority**

We are sending you this notice 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 مجانًا.

### **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 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. yeb&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.