



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

## Notice of Decision

Decision Date: April 04, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028085

[REDACTED]

[REDACTED]

On March 29, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 31, 2017 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 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.

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: April 04, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028085

[REDACTED]

## Issues

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

Did NYSOH properly determine that your second child's re-enrollment in her Child Health Plus plan was effective March 1, 2018?

## Procedural History

On September 3, 2017, NYSOH issued a renewal notice stating that no action was needed for your second child (child), and that you would receive a notice about reviewing her coverage in November 2017.

On November 19, 2017, NYSOH renewed your child's application for financial assistance for health insurance.

On November 20, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a full-pay Child Health Plus plan, effective January 1, 2018.

Also on November 20, 2017, NYSOH issued a plan disenrollment notice stating that your child's enrollment in her Child Health Plus plan would end of December 31, 2017.

Lastly, on November 20, 2017, NYSOH issued a plan enrollment notice, advising you to select a Child Health Plus plan for your child in order for her coverage in a plan to begin.

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On January 23, 2018, NYSOH updated your family's application for financial assistance with health insurance.

On January 24, 2018, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a full-pay Child Health Plus plan, effective March 1, 2018.

On January 24, 2018, NYSOH issued a plan enrollment notice, advising you to select a Child Health Plus plan for your child in order for her coverage in a plan to begin.

On January 30, 2018, you contacted NYSOH and selected a plan for enrollment. That day, a preliminary determination was made stating that your child's enrollment start date in her Child Health Plus plan was effective March 1, 2018.

Also on January 30, 2018, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as your child's start date did not begin as of January 1, 2018.

On January 31, 2018, NYSOH issued a plan enrollment notice stating that your child was enrolled in a Child health Plus plan, effective March 1, 2018.

On March 29, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you gave permission for the Hearing Officer to listen to recordings of telephone calls you had with NYSOH. The record was developed during the hearing and closed after the one telephone recording was reviewed.

## **Findings of Fact**

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

- 1) You testified that you are appealing only your second child's Child Health Plus plan enrollment start date.
- 2) On November 20, 2017, NYSOH issued a plan enrollment notice directing you to select a plan for your child's enrollment.
- 3) You testified that you contacted NYSOH by telephone and selected a plan.
- 4) The NYSOH Appeals Unit reviewed the recording of the November 27, 2017 telephone call between you and a NYSOH representative, at which time you selected a plan for your child's enrollment.

- 5) According to your NYSOH account, no plan was selected for enrollment on November 27, 2017.
- 6) According to your NYSOH account, your child was disenrolled from her Child Health Plus plan effective November 30, 2017, although there is no evidence in your NYSOH account to explain why NYSOH disenrolled your child as of this date.
- 7) You testified that you paid the premiums to your child's plan for the months of December 2017 and January 2018, and her Child Health Plus plan accepted those payments.
- 8) You testified that you contacted your child's Child Health Plus plan in January 2018 to pay her premium, at which time you were told she was no longer enrolled and to contact NYSOH.
- 9) According to your NYSOH account and your testimony, you contacted NYSOH on January 30, 2018 and re-enrolled your child into her Child Health Plus plan, with an enrollment start date of March 1, 2018.
- 10) According to your NYSOH account, your child had a gap in her Child Health Plus enrollment for the months of December 2017, January 2018 and February 2018.

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

## **Applicable Law and Regulations**

### 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)).

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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 issue under review is whether NYSOH properly determined that your child's re-enrollment in her Child Health Plus plan was effective March 1, 2018.

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

According to your NYSOH account, you contacted NYSOH on January 30, 2018, and re-enrolled your child into a Child Health Plus plan. Ordinarily, the effective date of a Child Health Plus plan selected on January 30, 2018, would be the first day of the second month following January 2018; that is March 1, 2018.

However, the record reflects that you first selected a plan for your child's enrollment on November 27, 2017, during a telephone call between you and NYSOH. Although you selected a plan that day, no plan enrollment was submitted by NYSOH on behalf of your child. It is therefore reasonable to conclude that your child was not enrolled into a Child Health Plus plan on November 27, 2017, due to an error by NYSOH, and through no fault of your own.

Since the credible evidence of record reflects that you first selected a Child Health Plus plan on November 27, 2017, the effective date would be the first day of the second month following November 2017; that is, as of January 1, 2018.

Therefore, the January 31, 2018 plan enrollment notice is MODIFIED to reflect a January 1, 2018 start date.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan as of January 1, 2018, and to notify you accordingly.

You are responsible for any premium payments for your child for those months in which premiums are due for coverage to resume.

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, your NYSOH account erroneously reflects that your child was disenrolled from her Child Health Plus plan as of November 30, 2017. Your child's disenrollment from her Child Health Plus plan should be December 31, 2017, as per the November 20, 2017 disenrollment notice.

Therefore, your case is also RETURNED to NYSOH to ensure that your child's account reflects that her disenrollment from her Child Health Plus plan ended December 31, 2017, as per the November 30, 2017 notice, and to notify you accordingly.

## **Decision**

The January 31, 2018 plan enrollment notice is MODIFIED to reflect a January 1, 2018 start date.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan as of January 1, 2018, and to notify you accordingly.

Your case is also RETURNED to NYSOH to ensure that your child's account reflects that her disenrollment from her Child Health Plus plan ended December 31, 2017, as per the November 30, 2017 notice, and to notify you accordingly.

**Effective Date of this Decision:** April 04, 2018

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

Your child's plan disenrollment with her Child Health Plus plan is December 31, 2017.

Your child's re-enrollment start date with her Child Health Plus plan is January 1, 2018.

Your case is being sent back to NYSOH to effectuate these changes and notify you accordingly.

You are responsible for any premium payments for your children for the months in which premiums are due for coverage to resume.

## **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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The January 31, 2018 plan enrollment notice is MODIFIED to reflect a January 1, 2018 start date.

Your case is RETURNED to NYSOH to enroll your child into her Child Health Plus plan as of January 1, 2018, and to notify you accordingly.

Your case is also RETURNED to NYSOH to ensure that your child's account reflects that her disenrollment from her Child Health Plus plan ended December 31, 2017, as per the November 30, 2017 notice, and to notify you accordingly.

Your child's plan disenrollment with her Child Health Plus plan is December 31, 2017.

Your child's re-enrollment start date with her Child Health Plus plan is January 1, 2018.

Your case is being sent back to NYSOH to effectuate these changes and notify you accordingly.

You are responsible for any premium payments for your children for the months in which premiums are due for coverage to resume.

## **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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