



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

## Notice of Decision

Decision Date: May 23, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028842



Dear [REDACTED]

On April 27, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 28, 2017 eligibility determination notice and January 31, 2018 eligibility determination 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

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NY State of Health Account ID: [REDACTED]  
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## Issues

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

Did you provide a timely appeal request of the November 28, 2017 eligibility determination notice?

Did NY State of Health properly determine that your children's eligibility for Child Health Plus at a cost of \$45.00 per month each was effective March 1, 2018?

## Procedural History

On November 28, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your November 27, 2017 application, stating that your children were eligible for Child Health Plus at full cost, effective January 1, 2018.

Also on November 28, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on November 27, 2017, stating that your children were enrolled in a Child Health Plus plan for a cost of \$202.26 per month each, and that this enrollment would start January 1, 2018.

On January 31, 2018, NYSOH issued an eligibility determination notice, based on your January 30, 2018 application, stating that your children were eligible for Child Health Plus at a cost of \$45.00 per month each, effective March 1, 2018.

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On January 31, 2018, NYSOH issued a plan enrollment notice, based on your plan selection on January 30, 2018, stating your children were enrolled in a Child Health Plus plan for a cost of \$45.00 per month each, and that this enrollment in the plan would start March 1, 2018.

On February 12, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's eligibility for Child Health Plus at a cost of \$45.00 per month each insofar as it did not begin January 1, 2018.

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 only your children's eligibility start date for Child Health Plus at a cost of \$45.00 per month each, effective March 1, 2018, requesting the subsidy be effective January 1, 2018.
- 2) The record shows your children were found eligible for Child Health Plus at full cost, effective January 1, 2018, based on an application you submitted online on November 27, 2017.
- 3) Your NYSOH account shows the first time you requested an appeal was on February 12, 2018.
- 4) You submitted an updated application to NYSOH for financial assistance for your children on January 30, 2018.
- 5) You testified, and your NYSOH account indicates, that you enrolled your children into a Child Health Plus plan on January 30, 2018.
- 6) Your application states you and your children reside in Westchester County, NY.

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

## **Applicable Law and Regulations**

### Timely Appeal Requests

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

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 e.g. 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 you provided a timely appeal request of the November 28, 2017 eligibility determination notice.

On November 28, 2017, NYSOH issued an eligibility determination notice, based on your November 27, 2017 application, stating that your children were eligible for Child Health Plus at full cost, effective January 1, 2018.

Individual applicants and enrollees must request a hearing within sixty (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 children's eligibility for a full cost Child Health Plus plan, as addressed in the November 28, 2017 eligibility determination notice, an appeal should have been filed by January 27, 2018. According to the credible evidence of record, you did not contact NYSOH until February 12, 2018 to file a formal complaint and a formal appeal was not filed until that date. This date is beyond 60 days from the November 28, 2017 notice.

Therefore, there has been no valid timely appeal of the November 28, 2017 eligibility determination notice and your appeal on the issue of your children's eligibility for a full cost Child Health Plus plan effective January 1, 2018 as stated in that notice is **DISMISSED**.

The second issue under review is whether NYSOH properly determined that your children's eligibility for Child Health Plus at a cost of \$45.00 per month each was effective March 1, 2018.

You testified that you contacted NYSOH on January 30, 2018, and submitted an updated application and selected a Child Health Plus plan for your children.

The date on which Child Health Plus eligibility can take effect depends on the day a person submits their application. An application submitted between the first day and fifteenth day of a month goes into effect on the first day of the following month. An application that is submitted 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.

Since your updated application for your children was received on January 30, 2018, your children's eligibility for a Child Health Plus monthly subsidy at a cost of \$45.00 per month each properly took effect the first day of the second month following January 2018; that is, on March 1, 2018.

Therefore, the January 31, 2018 eligibility determination notice stating that your children were eligible for Child Health Plus for a cost of \$45.00 per month each effective March 1, 2018, it is correct and must be **AFFIRMED**.

## **Decision**

Your appeal of the November 28, 2017 eligibility determination notice is **DISMISSED** as untimely.

The January 31, 2018 eligibility determination notice is **AFFIRMED**.

**Effective Date of this Decision:** May 23, 2018

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

Your children's eligibility for Child Health Plus at full cost for the months of January 2018 and February 2018, is not disturbed by this Decision.

The effective date of your children's eligibility for a Child Health Plus at a cost of \$45.00 each is 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 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

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).

- 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**

Your appeal of the November 28, 2017 eligibility determination notice is **DISMISSED** as untimely.

Your children's eligibility for Child Health Plus at full cost for the months of January 2018 and February 2018, is not disturbed by this Decision.

The January 31, 2018 eligibility determination notice is **AFFIRMED**.

The effective date of your children's eligibility for a Child Health Plus at a cost of \$45.00 each is March 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।

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.

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