

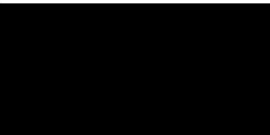


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029234



Dear [REDACTED]

On April 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2017 disenrollment and February 6, 2018 eligibility determination and enrollment confirmation 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  
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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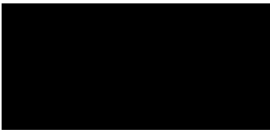


STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029234



## Issues

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

Did NY State of Health (NYSOH) properly disenroll your children from their Child Health Plus (CHP) plan, effective November 30, 2017?

Did NYSOH properly determine that your children's eligibility for, and enrollment in, their CHP coverage began on March 1, 2018?

## Procedural History

On August 25, 2017, you filed an application for financial assistance with health insurance through NYSOH on behalf of yourself and your three children.

On August 26, 2017, NYSOH issued a notice of eligibility determination stating your children were eligible for CHP with a monthly premium of \$9.00 each for a limited time, effective October 1, 2017. The notice further stated you needed to provide documentation of your household income on behalf of your children by October 24, 2017.

Also on August 26, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning October 1, 2017.

On October 30, 2017, NYSOH redetermined your children's eligibility.

On October 31, 2017, NYSOH issued a notice of eligibility determination stating your children were eligible to enroll in CHP with a monthly premium of \$60.00

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each, effective December 1, 2017. This was because you did not submit income documentation to verify the income information in your August 25, 2017 application, so NYSOH redetermined your children's eligibility for CHP premium assistance based on information from state and federal data sources.

Also on October 31, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan with a \$60.00 monthly premium.

On November 14, 2017, NYSOH issued a disenrollment notice, stating your children's enrollment in their CHP plan was ending, effective November 30, 2017, because you requested their coverage to end on November 13, 2017.

On November 28, 2017, NYSOH redetermined your household's eligibility for financial assistance.

On November 29, 2017, NYSOH issued a notice of eligibility determination stating your children were eligible for CHP with a \$60.00 monthly premium each, effective January 1, 2018. This was again because you did not send in documentation to verify the income information in your application, so your children's eligibility for CHP premium assistance was determined using information available from state and federal data sources. The notice directed you to select a plan on behalf of your children.

On February 5, 2018, you updated your NYSOH account.

On February 6, 2018, NYSOH issued a notice of eligibility determination stating your children were eligible for CHP with a monthly premium of \$9.00 each, effective March 1, 2018.

Also on February 6, 2018, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning March 1, 2018.

On February 22, 2018, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's CHP plan, insofar as they did not have coverage for the months of December 2017, January 2018, and February 2018.

On April 16, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open through May 1, 2018 to allow you to submit supporting documentation.

On April 27, 2018, you faxed a three-page document to the Appeals Unit. The record is now closed.

## Findings of Fact

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

- 1) You testified that you are appealing your children's disenrollment from their CHP plan for the months of December 2017, January 2018, and February 2018.
- 2) You testified your children were previously enrolled in CHP through Erie County.
- 3) You testified that, when it was time to recertify your children's coverage, you were advised you needed to apply through NYSOH, so you did so in August 2017.
- 4) You testified you received notice on August 24, 2017 from Erie County that your children's CHP coverage would be ending as of September 1, 2017.
- 5) You testified you immediately applied through NYSOH, and your children were found eligible for coverage for \$9.00 a month each, beginning in October 2017.
- 6) You testified you paid three months of premiums for your children, so you thought everything was all set through January 2018.
- 7) You testified you received a letter a few weeks after your children were approved for coverage, informing you their premium had increased to \$60.00 per month.
- 8) Your NYSOH account reflects a notice was issued on October 31, 2017 informing you your children were eligible for CHP with a \$60.00 monthly premium, effective December 1, 2017, because NYSOH did not receive income information necessary to verify the information in your application.
- 9) You testified you called NYSOH to ask why the premium increased, and were told it was because you did not submit paystubs.
- 10) You testified you faxed paystubs to NYSOH and thought you were all set, as you did not hear anything from NYSOH after that.
- 11) You testified you did not receive the November 14, 2017 notice informing you your children were being disenrolled from their CHP plan as of November 30, 2017.

- 12) Your NYSOH account contains a note entered by [REDACTED] on November 13, 2017 that states, "Cancelled CHP per plans request due to other insurance effective 11/30/17."
- 13) There is no eligibility determination or discontinuance notice in your account stating your children were not eligible for coverage because they had other health insurance.
- 14) You testified you never asked for your children to be disenrolled from their CHP plan.
- 15) You testified you had to enroll your oldest son in coverage through the [REDACTED], where he attends school, because you could not prove to the school that he had other coverage, as his CHP coverage through Erie County ended on September 1, 2017.
- 16) You testified your oldest child's school would not let him attend if he did not have health insurance, and you did not yet know when his NYSOH coverage would begin, so you had to enroll him in their coverage, effective September 1, 2017.
- 17) You testified you believe he had coverage through the school until November 2017.
- 18) You testified your two other children did not have any coverage outside of NYSOH.
- 19) You testified you received the November 29, 2017 notice stating your children were eligible for CHP with a \$60.00 monthly premium, but did not notice the part stating you needed to select a plan, as you had already picked a plan for them in August 2017.
- 20) You testified that you became aware that your children had been disenrolled from their CHP plan in January 2018 or February 2018, when you called to make payments for your children's premium.
- 21) You testified you contacted NYSOH and re-enrolled your children in coverage as soon as you found out they had been disenrolled.
- 22) Your NYSOH account reflects you updated your application and selected a CHP plan for enrollment on behalf of your children on February 5, 2018.
- 23) You testified you spoke to your children's CHP plan to try to find out why their coverage had been cancelled, and you were told NYSOH

had cancelled their coverage effective November 30, 2017, and you would have to follow up with NYSOH.

- 24) After the hearing, you faxed a three-page document to NYSOH consisting of:
- a. a fax coversheet;
  - b. a letter from you explaining, even though you were told your oldest child had coverage through his school, and you were charged for that coverage, it seems he was found ineligible for coverage as of August 21, 2017;
  - c. a letter from “BlueCross BlueShield of Western New York” dated April 19, 2018, addressed to your oldest child, stating his medical coverage was voided, effective August 21, 2017.

These documents are marked and entered into the record as “Appellant’s Exhibit One.”

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

## **Applicable Law and Regulations**

### Child Health Plus

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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for CHP, 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 CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

### Child Health Plus Start Date

The State of New York has provided that 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 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 disenrolled your children from their CHP plan, effective November 30, 2017.

Your children were originally found eligible for CHP with a \$9.00 monthly premium for a limited time, effective October 1, 2017. They were subsequently found fully eligible for CHP with a monthly premium of \$60.00 each, effective December 1, 2017. However, on November 14, 2017, NYSOH issued a disenrollment notice stating your children were being disenrolled from their CHP plan, effective November 30, 2017, because you asked NYSOH to end their coverage on November 13, 2017.

You testified you never asked NYSOH to disenroll your children from their CHP plan, as they had no other coverage. Moreover, you testified you did not even receive the November 14, 2017 notice, and were unaware that they had been disenrolled, as you had already paid their premiums for October, November, and December 2017.

A note entered into your NYSOH account on November 13, 2017 by someone at the Department of Health indicates that NYSOH terminated your children's coverage because their CHP plan allegedly informed NYSOH that the children had other coverage. The record is devoid of any documentation that verifies this claim, and NYSOH failed to issue any eligibility determination indicating your



children were ineligible for CHP coverage because they already had other health insurance.

Instead, NYSOH issued a disenrollment notice that falsely stated you had requested to end your children's enrollment in their plan. This was improper on NYSOH's part, as NYSOH not only fabricated the reason for your children's disenrollment, but also failed to verify the information allegedly provided by your plan, and failed to give you notice of the real reason your children's coverage was being terminated.

Generally, a child's CHP eligibility begins the first day of the month during which that child is found eligible for enrollment in CHP, and ends 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.

You testified you enrolled your oldest child into coverage through his college because the school would not let him attend if he did not have health insurance. You testified you did not become aware his coverage through Erie County was ending on September 1, 2017 until the end of August 2017, and you did not know at that time when his new coverage through NYSOH would begin. You testified you therefore were forced to enroll him in a plan through his school.

However, after the hearing, you submitted documentation from the health plan in which you believed him to be enrolled which states his enrollment was voided as of August 21, 2017. As such, he did not have coverage that overlapped his CHP coverage through NYSOH, and therefore his CHP eligibility and enrollment, along with that of your other two children, should have continued.

As the stated reason for disenrollment in NYSOH's November 14, 2017 notice was unsubstantiated by anything in the record, and as the "actual" reason stated in the notes in your NYSOH account – that your children had other insurance coverage – was also inaccurate, the November 14, 2017 disenrollment notice is **RESCINDED**.

The second issue under review is whether NYSOH properly determined your children's eligibility for, and enrollment in, their CHP coverage began on March 1, 2018.

The record indicates that on February 5, 2018, you updated your NYSOH account and submitted an updated application for your children. You testified that you updated the account as soon as you were aware your children had been disenrolled from coverage. On February 6, 2018, NYSOH issued an eligibility determination notice stating your children were eligible for CHP with a \$9.00 monthly premium each, effective March 1, 2018.

Ordinarily, a child's eligibility for, and enrollment in, their CHP coverage will begin on the first day of the next month, if the application and plan selection are received by the 15th of the month. As your application was made on February 5, 2018, your children's eligibility and enrollment would normally begin on the first day of the month following February: March 1, 2018.

However, as addressed above, your children were enrolled in a CHP plan and should never have been disenrolled by NYSOH. As such, the February 6, 2018 eligibility determination notice is MODIFIED to state your children were eligible for CHP with a \$9.00 monthly premium each, effective December 1, 2017.

Likewise, the February 6, 2018 enrollment confirmation notice is MODIFIED to state your children's enrollment in their CHP plan began December 1, 2017.

Your case is RETURNED to NYSOH to backdate your children's CHP coverage accordingly.

## **Decision**

The November 14, 2017 disenrollment notice is RESCINDED.

The February 6, 2018 eligibility determination notice is MODIFIED to state your children were eligible for CHP with a \$9.00 monthly premium each, effective December 1, 2017.

The February 6, 2018 enrollment confirmation notice is MODIFIED to state your children's enrollment in their CHP plan began on December 1, 2017.

Your case is RETURNED to NYSOH to backdate your children's CHP coverage accordingly, and to notify you when this has been done.

**Effective Date of this Decision: May 8, 2018**

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

Your children should not have been disenrolled from their NYSOH coverage as of November 30, 2017.

Your case is being sent back to NYSOH to backdate your children's current CHP coverage and enrollment to December 1, 2017.

If applicable, you will be responsible for any premiums due for coverage to resume for the months of December, January, and February.

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).

## **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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The November 14, 2017 disenrollment notice is **RESCINDED**.

The February 6, 2018 eligibility determination notice is **MODIFIED** to state your children were eligible for CHP with a \$9.00 monthly premium each, effective December 1, 2017.

The February 6, 2018 enrollment confirmation notice is **MODIFIED** to state your children's enrollment in their CHP plan began on December 1, 2017.

Your case is **RETURNED** to NYSOH to backdate your children's CHP coverage accordingly, and to notify you when this has been done.

Your children should not have been disenrolled from their NYSOH coverage as of November 30, 2017.

Your case is being sent back to NYSOH to backdate your children's current CHP coverage and enrollment to December 1, 2017.

If applicable, you will be responsible for any premiums due for coverage to resume for the months of December, January, and February.

## **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 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. 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.

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).