



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

## Notice of Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029518



Dear [REDACTED]

On May 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 1, 2018 disenrollment 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 at the top of this notice.

## Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulation (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).

This page intentionally left blank.



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

## Decision

Decision Date: May 18, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029518



## 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 children's eligibility for, and enrollment in, their Child Health Plus (CHP) coverage ended as of March 31, 2018?

## Procedural History

On November 16, 2017, NYSOH issued a renewal notice stating it was time to renew your household's health insurance for 2018. The notice stated that, based on information available from federal and state data sources, you and your spouse were eligible to receive up to \$466.66 per month in advance payments of the premium tax credit, and your children were eligible to enroll in CHP with a \$30.00 monthly premium each, effective January 1, 2018. The notice also stated you and your spouse would be reenrolled in your Fidelis bronze level qualified health plan (QHP), and your children would be reenrolled in their UnitedHealthcare (UHC) CHP plan, beginning January 1, 2018.

On November 18, 2017, NYSOH issued a notice of enrollment confirmation, confirming you and your spouse's enrollment in your Fidelis QHP, and your children's enrollment in their UHC CHP plan, beginning January 1, 2018.

On December 5, 2017, you updated your NYSOH account.

On December 6, 2017, NYSOH issued a notice of eligibility determination stating you and your spouse were eligible to receive up to \$467.00 per month in

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).

advance payments of the premium tax credit, and your children were eligible to enroll in CHP with a \$30.00 monthly premium each, effective January 1, 2018.

Also on December 6, 2017, NYSOH issued a notice of enrollment confirmation, confirming you and your spouse's enrollment in your Fidelis bronze level QHP, and your children's enrollment in their UHC CHP plan, beginning January 1, 2018.

On February 28, 2018, you updated your NYSOH application to reflect that no one in your household needed health insurance. That same day, you spoke to NYSOH's Account Review Unit and appealed, insofar as your children's CHP coverage ended on March 31, 2018, and not February 28, 2018.

On March 1, 2018, NYSOH issued a discontinuance notice, stating you, your spouse, and your children were no longer eligible to enroll in health insurance through NYSOH, effective April 1, 2018. This was because you no longer wanted coverage through NYSOH.

Also on March 1, 2018, NYSOH issued a disenrollment notice, stating you and your spouse's enrollment in your QHP, and your children's enrollment in their CHP plan, was ending as of March 31, 2018.

On May 11, 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 18, 2018 to allow you to submit supporting documentation.

On May 11, 2018, you faxed a three-page document to NYSOH's Appeals Unit. The record is now closed.

## **Findings of Fact**

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

- 1) Your NYSOH account reflects that your children were enrolled in a UHC CHP plan, and you and your spouse were enrolled in a Fidelis QHP, both beginning January 1, 2018.
- 2) You testified you started a new job in January of 2018, and knew you would be eligible for employer-sponsored health insurance (ESI) benefits for yourself and your family as of March 1, 2018.
- 3) You testified you called NYSOH in January 2018 to find out what you needed to do to disenroll from your coverage when your new ESI began.

- 4) You testified the person you spoke with at NYSOH told you to call back a week or two before your ESI coverage began to disenroll your family from their NYSOH coverage.
- 5) You testified you cannot remember exactly when you called NYSOH to disenroll, but you believe you followed NYSOH's instructions and called in the middle of February 2018.
- 6) Your NYSOH account reflects your application was updated over the phone on February 28, 2018, and you changed the application to reflect that no one in your household needed health insurance through NYSOH.
- 7) Your NYSOH account reflects NYSOH issued a disenrollment notice on March 1, 2018 stating you and your spouse's enrolment in your QHP, and your children's enrollment in their CHP plan, would end, effective March 31, 2018.
- 8) NYSOH's system contains a note entered by a NYSOH employee on February 28, 2018 in Incident # [REDACTED] stating, "[c]onsumer is requesting for herself and husband to be retroactively disenrolled with an end date of 2/28/2018 sure [sic] to receiving coverage through her employer beginning 3/1."
- 9) Also on February 28, 2018, a note was entered in that same incident by a NYS Department of Health employee reading, "date changed."
- 10) Your NYSOH account reflects you and your spouse were disenrolled from your QHP coverage as of February 28, 2018, and your children were disenrolled from their CHP coverage as of March 31, 2018.
- 11) You testified your ESI coverage is NYSHIP coverage, as you are now [REDACTED]
- 12) After the hearing, you faxed a copy of the front and back of your NYSHIP insurance card, which reads, "Empire Plan," and lists you, your spouse, and your three children as covered plan members. This document is marked and entered into the record as "Appellant's Exhibit One."
- 13) You testified you are looking for your children's CHP disenrollment to be effective February 28, 2018, as they were covered through your NYSHIP coverage beginning March 1, 2018.
- 14) You testified your children did not utilize their CHP coverage in the month of March 2018, and any medical expenses were covered by their NYSHIP coverage.

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

## **Applicable Law and Regulations**

### 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)).

Children who have access to a state health benefits plan such as NYSHIP are not eligible to enroll in CHP (State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

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)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children were disenrolled from their CHP plan as of March 31, 2018.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL.

One of the non-financial eligibility requirements is that the child must not have access to a state health benefits plan such as NYSHIP. Children who have access to NYSHIP coverage are not eligible to enroll in CHP.

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).

Your NYSOH account reflects your children were enrolled in CHP, beginning January 1, 2018. However, on February 28, 2018, you changed your application to reflect that you were no longer applying for coverage through NYSOH for anyone in your household. You credibly testified this was because you were newly eligible for NYSHIP coverage for yourself and your family through your employer. NYSOH issued a disenrollment notice stating you and your spouse were disenrolled from your QHP, and your children were disenrolled from their CHP, effective March 31, 2018. However, NYSOH changed the termination date of you and your spouse's coverage to February 28, 2018, and you appealed NYSOH's refusal to backdate your children's CHP disenrollment to February 28, 2018 as well.

Ordinarily, the period of eligibility for CHP begins on the first day of the month in which a child is eligible, and ends on the last day of the twelfth month following that date. However, this twelve-month period of coverage will end under certain circumstances, including the child becoming eligible for other public health insurance. A child who has access to a state health benefit plan such as NYSHIP is not eligible to enroll in CHP.

You testified that you [REDACTED], and that you, your spouse, and your children were enrolled in NYSHIP coverage as of March 1, 2018. After the hearing, you uploaded a copy of your NYSHIP card, which confirms that you and everyone in your household are included in that coverage.

Therefore, your children became ineligible for continued CHP coverage when they gained access to NYSHIP, as a child who is eligible for NYSHIP cannot enroll in CHP coverage.

As such, the March 1, 2018 disenrollment notice is MODIFIED to state your children's enrollment in their CHP plan ended effective February 28, 2018.

Your case is RETURNED to NYSOH to update your account to reflect the new end date of your children's CHP enrollment.

## **Decision**

The March 1, 2018 disenrollment notice is MODIFIED to state your children's enrollment in their CHP plan ended effective February 28, 2018.

Your case is RETURNED to NYSOH to update your account to reflect an end date of February 28, 2018 for your children's CHP coverage.

**Effective Date of this Decision:** May 18, 2018

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

Your children were no longer eligible for CHP as of March 1, 2018 because they had access to NYSHIP.

Your children should have been disenrolled from their CHP plan as of February 28, 2018.

Your case is being sent back to NYSOH to update your account in accordance with this decision.

## **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

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).



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 March 1, 2018 disenrollment notice is MODIFIED to state your children's enrollment in their CHP plan ended effective February 28, 2018.

Your case is RETURNED to NYSOH to update your account to reflect an end date of February 28, 2018 for your children's CHP coverage.

Your children were no longer eligible for CHP as of March 1, 2018 because they had access to NYSHIP.

Your children should have been disenrolled from their CHP plan as of February 28, 2018.

Your case is being sent back to NYSOH to update your account in accordance with this decision.

### **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 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.

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).