



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

## Notice of Decision

Decision Date: May 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029586

[REDACTED]

Dear [REDACTED],

On May 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's March 2, 2018 enrollment confirmation 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 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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: May 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029586



## 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 child's enrollment in his Child Health Plus plan was effective April 1, 2018?

## Procedural History

On February 17, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Medicaid, effective March 1, 2017.

Also on February 17, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Medicaid Managed Care plan with a plan enrollment start date of April 1, 2017.

On January 2, 2018, NYSOH issued a notice stating that it was time to renew your child's health insurance. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for his health coverage, and that you needed to update your account by February 15, 2018 or your child was at risk of losing his health insurance coverage and, if applicable, any financial assistance.

On January 30, 2018, a certified application counselor updated your child's application for financial assistance with health insurance on your behalf. That day, a preliminary eligibility determination was prepared with regard to that application stating that your child was conditionally eligible for Medicaid, effective

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March 1, 2018, and that you would need to provide documents to prove your income within fifteen days.

Also on January 30, 2018, a certified application counselor selected a Medicaid Managed Care plan for enrollment for your child.

Additionally, on January 30, 2018, income documents were uploaded to your NYSOH account.

On January 30, 2018, NYSOH verified the income documentation you submitted, recalculated your household income based on this documentation, and submitted an application on your behalf.

On January 31, 2018, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Medicaid Managed Care plan with a plan enrollment start date of April 1, 2018.

Also on January 31, 2018, NYSOH issued an eligibility determination notice, based on the final application on your account on January 30, 2018, stating that your child was eligible for Child Health Plus with a \$9.00 monthly premium, effective March 1, 2018. This notice advised you that you needed to select a health plan for enrollment for your child.

Additionally, on January 31, 2018, NYSOH issued a disenrollment notice stating that your child's enrollment in his Medicaid Managed Care plan would end on February 28, 2018. This was because your child was no longer eligible for Medicaid.

On March 1, 2018, you selected a Child Health Plus plan for enrollment for your child.

Also on March 1, 2018, you spoke to NYSOH's Account Review Unit and appealed insofar as your child's enrollment in his Child Health Plus plan began on April 1, 2018 and not March 1, 2018.

On March 2, 2018, NYSOH issued an enrollment confirmation notice, based on your plan selection on March 1, 2018, stating that your child was enrolled in a Child Health Plus plan with a plan enrollment start date of April 1, 2018.

On May 1, 2018, you had a telephone hearing with a Hearing Officer with the NYSOH Appeals Unit. The record was developed during that hearing and closed at the end of the hearing.

## **Findings of Fact**

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

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- 1) You testified, and your NYSOH account confirms, that you renewed your child's application for financial assistance with a certified application counselor on January 30, 2018.
- 2) As a result of the January 30, 2018 application you submitted with a certified application counselor, your child was found conditionally eligible for Medicaid and you were directed to submit documentation of your household income within fifteen days.
- 3) You testified that on January 30, 2018 you were able to select a plan for enrollment for your child and you assumed that your child was all set for coverage as of March 1, 2018.
- 4) On January 30, 2018, income documentation was uploaded to your NYSOH account.
- 5) Also on January 30, 2018, NYSOH verified the income documentation you submitted, recalculated your household income based on this documentation, and submitted an updated application on your behalf. As a result of this application, your child was found eligible for Child Health Plus, effective March 1, 2018, and disenrolled from Medicaid and his Medicaid Managed Care plan as of February 28, 2018.
- 6) Your NYSOH account reflects that you receive all of your notices from NYSOH by electronic mail.
- 7) You testified that you did not receive any electronic alerts regarding the January 31, 2018 eligibility determination notice advising you that your child was eligible for Child Health Plus and that you needed to select a plan for enrollment for the January 31, 2018 disenrollment notice advising you that your child's coverage in his Medicaid Managed Care plan was ending. You testified that you frequently check your e-mail and did not see any electronic alerts from NYSOH regarding these notices.
- 8) You testified that you did not know that your child was without coverage until you took him to a [REDACTED] on [REDACTED].
- 9) You testified, and your NYSOH account reflects, that you contacted NYSOH on March 1, 2018 and selected a Child Health Plus plan for enrollment for your child.
- 10) You testified that you are seeking that your child be enrolled in his Child Health Plus plan as of March 1, 2018.
- 11) NYSOH uploaded an evidence packet to your NYSOH account.  
Contained within that evidence packet under the heading of "electronic

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notice requirement” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices”.

- 12) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the January 31, 2018 eligibility determination notice and the January 31, 2018 disenrollment notice.

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)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan was effective April 1, 2018.

On January 30, 2018, your child was initially found conditionally eligible for Medicaid and enrolled into a Medicaid Managed Care plan.

Also on January 30, 2018 income documentation was uploaded to your NYSOH account. That same day, NYSOH verified the income documentation, recalculated your annual expected income, submitted an updated application on your behalf, and determined that your child was eligible for Child Health Plus as of March 1, 2018.

In the January 31, 2018 eligibility determination notice you were advised that your child was eligible for Child Health Plus and that you needed to select a plan for enrollment. In the January 31, 2018 disenrollment notice, you were advised that your child's enrollment in his Medicaid Managed Care plan was ending as of February 28, 2018.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of new notices available in your account on January 31, 2018. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which directed you to select a Child Health Plus plan for enrollment for your child. There is also no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that your child was eligible for Child Health Plus and that you needed to select a plan for enrollment.

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You testified that you contacted NYSOH on March 1, 2018 and enrolled your child into a Child Health Plus plan.

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.

Had NYSOH properly provided you with notice that your child was eligible for Child Health Plus and that you needed to select a plan for enrollment for your child, you could have selected a Child Health Plus plan for your child as soon as January 31, 2018.

Had you selected a plan on January 31, 2018, it would have gone into effect on the first day of the second month following after January 31, 2018; that is, on March 1, 2018.

Therefore, the March 2, 2018 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2018.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan as of March 1, 2018.

## **Decision**

The March 2, 2018 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2018.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan as of March 1, 2018.

**Effective Date of this Decision:** May 4, 2018

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

NYSOH failed to provide you with proper notice that your child was eligible for Child Health Plus and that you needed to select a Child Health Plus plan for enrollment.

Your child's enrollment in his Child Health Plus plan should have been effective as of March 1, 2018.

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Your case is being sent back to NYSOH to enroll your child in his Child Health Plus plan as of March 1, 2018.

### **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:

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The March 2, 2018 enrollment confirmation notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan was effective as of March 1, 2018.

NYSOH failed to provide you with proper notice that your child was eligible for Child Health Plus and that you needed to select a Child Health Plus plan for enrollment.

Your child's enrollment in his Child Health Plus plan should have been effective as of March 1, 2018.

Your case is being sent back to NYSOH to enroll your child in his Child Health Plus plan as of March 1, 2018.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan as of 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 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।

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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. 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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