



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

## Notice of Decision

Decision Date: May 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014603

[REDACTED]

Dear [REDACTED],

On April 5, 2017, you and your authorized representative, [REDACTED], appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2016, eligibility determination; November 22, 2016 disenrollment, and December 29, 2016, eligibility determination 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 NY State of Health number 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(b).

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: May 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000014603

[REDACTED]

## Issues

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

Did New York State of Health (NYSOH) properly determine that your child was no longer eligible to enroll in health insurance coverage through NYSOH and terminated their coverage effective November 30, 2016?

Did NYSOH properly determine that your child was not eligible for Child Health Plus as of December 29, 2016?

## Procedural History

On April 20, 2016, an application for financial assistance was submitted for you and your child.

On April 27, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was eligible for Child Health Plus, with a monthly premium of \$0.00, for a limited time effective as of June 1, 2016. The notice directed you to provide proof of a Social Security number (SSN) by July 19, 2016.

On May 4, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that your child was enrolled in a Child Health Plus plan with an enrollment start date of June 1, 2016. The notice directed you to provide proof of a SSN by July 19, 2016.

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On August 10, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was eligible for Child Health Plus, with a monthly premium of \$0.00, for a limited time effective as of September 1, 2016. The notice directed you to provide proof of a Social Security number (SSN) by November 7, 2016.

Also on August 10, 2016, NYSOH issued an enrollment notice confirming, that as of August 9, 2016, your child was enrolled in a Child Health Plus plan with an enrollment start date of September 1, 2016.

On November 13, 2016, your NYSOH account was updated systematically.

On November 14, 2016, NYSOH issued an eligibility determination notice stating that your child was no longer eligible for health insurance through NYSOH effective December 1, 2016. The notice stated that you did not provide your child's SSN to confirm their eligibility.

On November 22, 2016, NYSOH issued a disenrollment notice stating that your child's coverage would end effective November 30, 2016.

On November 30, 2016, your NYSOH account was updated.

On December 1, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was eligible for Child Health Plus, with a monthly premium of \$0.00, effective as of January 1, 2017.

Also on December 1, 2016, NYSOH issued an enrollment notice confirming, that as of November 30, 2016, your child was enrolled in a Child Health Plus plan with an enrollment start date of January 1, 2017.

On December 29, 2016, your NYSOH account was updated.

On December 30, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your child was conditionally eligible for Medicaid as of January 1, 2017. The notice directed you to provide proof of immigration status for your child by March 29, 2017.

Also on December 30, 2016, NYSOH issued a disenrollment notice confirming that your child's Child Health Plus coverage would end on January 1, 2017.

On January 4, 2017, NYSOH issued an enrollment notice confirming, in relevant part, that your child was eligible to enroll in a Medicaid Managed Care plan with an enrollment start date of February 1, 2017.

Also, on January 4, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as: (1) The discontinuance of your child's Child

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Health Plus plan effective November 30, 2016; and (2) Your child's eligibility for Child Health Plus as of December 29, 2016.

On April 5, 2017, you and authorized representative, [REDACTED], had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing, and the record was closed at the end of the hearing.

## Findings of Fact

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

- 1) According to your NYSOH account, your child was born [REDACTED].
- 2) According to your April 20, 2016 application, your child did not have a SSN because you were in the process of applying for one.
- 3) You testified that an application for a SSN was submitted through the Social Security Administration (SSA) in May 2016.
- 4) On May 19, 2016, the SSA's Queens Social Card Center issued you a notice stating:

We cannot issue [your child] a Social Security card at this time because: You have not given us the document(s) we need to show U.S. citizenship or lawful alien status. You must bring us a written request from HRA stating they require a Social Security number due to your child's medical condition [REDACTED].
- 5) On September 19, 2016, the Department of Homeland Security, U.S. Citizenship and Immigration Services issued you a Form I-797C Notice of Action. The notice states that your child's application for employment authorization was received on September 15, 2016 [REDACTED].
- 6) Your child was issued an Employment Authorization Card with the category card "C08." The card states that it is valid from October 25, 2016 through October 24, 2018 [REDACTED].
- 7) You testified that you were able to obtain a SSN from the SSA for your child by providing their Employment Authorization Card.
- 8) On December 7, 2016, your child's Social Security card was uploaded to your NYSOH account. The card states that the card was issued on November 10, 2016 [REDACTED].

- 9) You testified that you first learned that your child's Child Health Plus coverage had been discontinued when the hospital called you on [REDACTED].
- 10) You testified that you have approximately \$7,000.00 in outstanding medical bills because your child was not enrolled in Child Health Plus in December 2016.
- 11) According to your NYSOH account and testimony, you will not be filing a federal income tax return, and no one will claim you or your child as a dependent on their return.
- 12) According to your NYSOH account and testimony, you have an expected 2016 yearly income of \$0.00.
- 13) You testified that your child has [REDACTED], and want your child enrolled in Child Health Plus because Medicaid is not paying for their medical treatments.

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

## **Applicable Law and Regulations**

### Child Health Plus - Generally

A child who meets the eligibility requirements for Child Health Plus 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, 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

(N.Y. Pub. Health Law. § 2511(2)(a)-(e)).

### Child Health Plus – Social Security number

The agency must require, as a condition of eligibility, that each individual (including children) seeking Medicaid or Child Health Plus furnish each of his or her Social Security numbers (42 CFR § 457.340(b), 42 CFR § 435.910(a)(1)).

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An individual is not required to furnish a Social Security number if they –

- (1) Are not eligible to receive a SSN;
- (2) Do not have a SSN and may only be issued for a valid non-work reason; or
- (3) Refuses to obtain a SSN because of well-established religious objections

(42 CFR § 435.910(h)(1)).

The agency must not deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by the Social Security Administration (SSA) or if the individual meets one of the exceptions list under section (h) of 42 CFR § 435.910 (42 CFR § 435.910(f)).

### Medicaid Eligibility for Children

Children who are at least one year of age but younger than nineteen are eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Health Administrative Directive 13 OHIP/ADM-03.

In the case where a child, under the age of 19, is not a tax filer and is not a tax dependent, the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2016 FPL (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your child was no longer eligible to enroll in health insurance coverage through NYSOH and terminated their coverage effective November 30, 2016.

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On April 27, 2016 and August 10, 2016, NYSOH issued eligibility determination notices stating that your child was eligible to enroll in Child Health Plus for a limited time. However, you were informed that you needed to provide documentation of your child's SSN to NYSOH by July 19, 2016 and November 7, 2016, to confirm their eligibility.

NYSOH is required to determine whether individuals are eligible to enroll in health insurance coverage, and must confirm, among other things, that applicants have a valid SSN. However, for children seeking enrollment in Child Health Plus, the requirement to obtain and submit a SSN does not apply to an applicant who does not currently have one.

On June 22, 2016, you submitted to NYSOH a notice from the SSA's Queens Social Security Card Center stating that your child was not eligible to be issued a Social Security card because you had not provided the necessary citizenship or immigration documentation. The notice instructed you to provide a written request from HRA stating that your child requires a SSN due to your child's medical condition (██████████).

On September 29, 2016, you submitted to NYSOH a notice from the Department of Homeland Security, U.S. Citizenship and Immigration Services stating that your child's application for employment authorization was received on September 15, 2016 (██████████). Your child was issued an Employment Authorization Card, which was valid as of October 25, 2016. You testified that you were able to obtain a SSN from the SSA for your child by providing their Employment Authorization Card. On December 7, 2016, your child's Social Security card was uploaded to your NYSOH account. The card states that the card was issued on November 10, 2016 (██████████).

The record supports that your child did not possess a SSN before the expiration of your child's conditional Child Health Plus eligibility period, and was in the process of applying for the necessary immigration status to be eligible to be issued a SSN. Furthermore, you provided documentation that you had applied and been denied the issuance of a SSN for your child. Therefore, NYSOH improperly discontinued your child's Child Health Plus coverage effective November 30, 2016.

The November 14, 2016, eligibility determination notice stating that your child was no longer eligible for health insurance through NYSOH effective December 1, 2016 is RESCINDED.

The November 22, 2016, disenrollment notice stating that your child's coverage would end effective November 30, 2016 is RESCINDED.



Your case is RETURNED to NYSOH to REINSTATE your children's Child Health Plus coverage for the month of December 2016.

The second issue under review is whether NYSOH properly determined that your child was not eligible for Child Health Plus as of December 29, 2016.

The record reflects that you do not expect to file a federal income tax return, and your child will not be claimed as a dependent on any federal income tax return. Therefore, your child is in a two-person tax household. Lastly, the record supports that you have an expected 2016 household income of \$0.00.

Medicaid can be provided through NYSOH to children, between the ages of one and nineteen, who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$0.00 is 0.00% of the 2016 FPL for a two-person household, NYSOH properly found your child to be eligible for Medicaid.

You testified that you want your child enrolled in health coverage through Child Health Plus and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus.

The December 29, 2016, eligibility determination is AFFIRMED.

## **Decision**

The November 14, 2016, eligibility determination notice stating that your child was no longer eligible for health insurance through NYSOH effective December 1, 2016 is RESCINDED.

The November 22, 2016, disenrollment notice stating that your child's coverage would end effective November 30, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your children's Child Health Plus coverage for the month of December 2016.

The December 29, 2016, eligibility determination is AFFIRMED.

**Effective Date of this Decision:** May 2, 2017

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

Your child's Child Health Plus health plan will be reinstated from December 1, 2016 through December 31, 2016.

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).

NYSOH properly determined that your child was no longer eligible to enroll in Child Health Plus as of December 29, 2016.

### **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:

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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- By fax: 1-855-900-5557

## **Summary**

The November 14, 2016, eligibility determination notice stating that your child was no longer eligible for health insurance through NYSOH effective December 1, 2016 is RESCINDED.

The November 22, 2016, disenrollment notice stating that your child's coverage would end effective November 30, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your children's Child Health Plus coverage for the month of December 2016.

The December 29, 2016, eligibility determination is AFFIRMED.

Your child's Child Health Plus health plan will be reinstated from December 1, 2016 through December 31, 2016.

NYSOH properly determined that your child was no longer eligible to enroll in Child Health Plus as of December 29, 2016.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

[REDACTED]

[REDACTED]

## 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 okyerE 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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