



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

## Notice of Decision

Decision Date: May 4, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015289

[REDACTED]

Dear [REDACTED],

On April 25, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2016 eligibility determination and disenrollment notices, and the January 29, 2017 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  
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## Decision

Decision Date: May 4, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000015289



## Issues

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

Did NY State of Health properly determine that your youngest child's eligibility for and enrollment in Child Health Plus terminated effective December 31, 2016?

Did NY State of Health properly determine that your youngest child's reenrollment in his Child Health Plus plan was effective March 1, 2017?

## Procedural History

On September 14, 2016, your youngest child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf.

On September 15, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was eligible to enroll in Child Health Plus with a \$15.00 per month premium for a limited time effective October 1, 2016. The notice requested that you provide documentation confirming his citizenship status and Social Security number before December 13, 2016.

Also on September 15, 2016, NYSOH issued a notice confirming your youngest child's enrollment in a Child Health Plus plan, effective October 1, 2016.

On December 6, 2016, your youngest child's birth certificate was uploaded to your NYSOH account.

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On December 20, 2016, NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. He also could not enroll in a qualified health plan at full cost because you had not confirmed his Social Security number within the required timeframe.

Also on December 20, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in his Child Health Plus plan would end effective December 31, 2016 because he was no longer eligible to enroll in health insurance through NYSOH.

On December 21, 2016, NYSOH reviewed your youngest child's birth certificate and determined that this was sufficient proof of your youngest child's citizenship.

Also on December 21, 2016, NYSOH redetermined your household's eligibility for financial assistance.

On December 22, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was eligible to enroll in Child Health Plus with a \$15.00 per month premium for a limited time effective February 1, 2017. The notice requested that you provide documentation confirming his Social Security number before March 21, 2017. This notice directed you to select a plan for your youngest child.

On January 28, 2017, you contacted NYSOH and selected a child health plus plan for your youngest child for reenrollment.

Also on January 28, 2017, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his Child Health Plus plan for the months of January 2017 and February 2017.

On January 29, 2017, NYSOH issued a notice of enrollment confirmation stating that your youngest child was reenrolled in his Child Health Plus plan with a plan enrollment start date of March 1, 2017.

On April 25, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your spouse acted as your Authorized Representative and assisted you with your testimony. 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) Your spouse testified that you are only appealing your youngest child's disenrollment from his Child Health Plus plan for the months of January 2017 and February 2017.
- 2) The record indicates that your youngest child was added to your NYSOH account on September 14, 2016. The application that was submitted that day indicates that he was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.
- 3) Your spouse testified that your youngest child was born on [REDACTED].
- 4) Your spouse testified that you received your youngest child's Social Security number on February 20, 2017.
- 5) Your spouse testified that there was a delay in receiving your youngest child's Social Security number because your midwife did not fully complete the paperwork to direct town hall to forward paperwork to the Social Security Administration.
- 6) On December 6, 2016, you uploaded your youngest child's birth certificate to your NYSOH account.
- 7) Your spouse testified that you did not know your child had been disenrolled from her Child Health Plus plan until mid-January 2017 when you received a bill from his doctor's office.
- 8) On February 10, 2017, you uploaded your youngest child's Social Security card to your NYSOH account.
- 9) During the hearing, your spouse gave permission for the Hearing Officer to listen to recordings of phone calls between yourself or your spouse and NYSOH.
- 10) Your spouse testified that she contacted NYSOH around December 20, 2016 to advise NYSOH that you had not yet received your youngest child's Social Security number.
- 11) The record reflects that on December 28, 2016, your spouse placed a phone call to NYSOH. A review of the recording of that phone call reveals that your spouse contacted NYSOH as she was concerned

that your youngest child would be terminated from his Child Health Plus plan, as there was a delay in receiving your youngest child's Social Security card. The NYSOH representative advised your spouse that the due date for your youngest child's Social Security number was March 21, 2017. At no time during that phone call did the NYSOH representative advise you that your youngest child had been disenrolled from his Child Health Plus plan or that you needed to pick a Child Health Plus plan for your youngest child for reenrollment.

- 12) Your spouse testified that you currently receive all your notices from NYSOH by regular mail. Your spouse further testified that at some point, you were receiving electronic alerts, however, you were not sure when you had changed the preference of how you receive notices from NYSOH.
- 13) The record reflects that on January 28, 2017, you placed a phone call to NYSOH. A review of the recording of that phone call reveals that during that phone call you were advised that e-mail alerts were selected on your NYSOH account. Also during that phone call, you selected a Child Health Plus plan for your youngest child for reenrollment.
- 14) Your spouse testified that she could not recall if you had received an electronic alert from NYSOH advising you that the September 15, 2016 eligibility determination notice which indicated that your youngest child was only eligible for Child Health Plus for a limited time and that citizenship and Social Security number documentation was required before December 13, 2016 nor could she recall if you had received this notice via regular mail.
- 15) Your spouse also testified that she could not recall if you had received an electronic alert from NYSOH advising you that the December 22, 2016 eligibility determination notice which indicated that you needed to select a plan for your youngest child nor could she recall if you had received this notice via regular mail.
- 16) Your spouse testified that the e-mail account listed on your NYSOH account was not being checked regularly at the time these notices were issued.

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 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)).

As a condition of eligibility for Child Health Plus, an individual, including children, must furnish their Social Security Number and evidence of their citizenship or status as a qualified immigrant or PRUCOL alien to NY State of Health for verification purposes (42 CFR § 435.910(a) and (b)(3); 42 CFR § 457.340(b); 18 NYCRR § 360-3.2(j)(2) and (3); *see generally* 18 NYCRR § 360-3.2(j)).

NYSOH must require an applicant who has a Social Security Number to provide the number but does not require an applicant's Social Security Number as a condition of enrollment for Child Health Plus if the applicant is not eligible to receive one or his or her number is not yet available (42 CFR § 457.340(b), 42 CFR § 435.910(h)(1); Model State Children's Health Insurance Program Plan, Section 4.1.9).

If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NY State of Health must then provide the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received 5 days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the 5 day period (45 CFR § 155.315(c)(3), (f)(2)(i)).

If NYSOH remains unable to verify the citizenship attestation after the 90-day period ends, it must determine the applicant's eligibility based on the information available (45 CFR § 155.315(f)(5)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or

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caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your child’s eligibility for and enrollment in Child Health Plus terminated effective December 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, their Social Security number and citizenship status.

If NYSOH cannot verify an individual’s citizenship status or Social Security number, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency.

The record indicates that your youngest child was added to your NYSOH account on September 14, 2016. The application that was submitted that day indicates

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that he was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on September 15, 2016 you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his Social Security number and citizenship status before December 13, 2016.

You testified that you received your child's Social Security number on February 20, 2017. The record indicates that NYSOH did not have his Social Security number before the December 13, 2016 deadline.

On December 20, 2016, NYSOH issued a disenrollment notice stating that your youngest child's coverage in his Child Health Plus plan would end effective December 31, 2016 because he was no longer eligible to enroll in health insurance through NYSOH. According to the eligibility determination issued on that day, this was because NYSOH did not receive documentation of his citizenship status and Social Security number.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your child from her Child Health Plus plan was dated December 20, 2016. Therefore, the notice terminating your child's enrollment would be considered received as of December 25, 2016.

When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the next following month. Since you would have received NYSOH's notice terminating your child's Child Health Plus eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until February 1, 2017.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in Child Health Plus coverage for your youngest child for the month of January 2017 and the December 20, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

The second issue is whether NYSOH properly determined that your youngest child's reenrollment in his Child Health Plus plan was effective March 1, 2017.

On December 21, 2016, NYSOH reviewed your youngest child's birth certificate and found this to be sufficient proof your youngest child's citizenship status and your youngest child's eligibility was redetermined.

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).

On December 22, 2016, NYSOH issued a notice of eligibility determination stating that your youngest child was eligible for Child Health plus with a \$15.00 monthly premium for a limited time and that you would need to submit your youngest child's Social Security number by March 21, 2017 in order to confirm your youngest child's eligibility.

The record reflects that on December 28, 2016, you contacted NYSOH to follow-up on your youngest child's Child Health Plus coverage and to advise NYSOH that there was a delay in obtaining your youngest child's Social Security number.

The NYSOH representative advised you that you had until March 21, 2017 to submit your youngest child's Social Security number. You were not advised that your child had been disenrolled from his Child Health Plus plan or that you needed to select a Child Health Plus plan for reenrollment for your youngest child.

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 you been properly advised during the December 28, 2016 phone call, you could have selected a Child Health Plus plan for your youngest child's reenrollment that day.

Had you selected a plan for your youngest child on December 28, 2016 it would have been effective on the first day of the second month following December 2016; that is, on February 1, 2017.

As stated above, your child also should not have been disenrolled from this Child Health Plus month for the month of January. Therefore, the January 29, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2017.

## **Decision**

The December 20, 2016 eligibility determination and disenrollment notices are RESCINDED.

The January 29, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2017.

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 case is RETURNED to NYSOH to reinstate your youngest child into his Child Health Plus plan for the months of January 2017 and February 2017.

**Effective Date of this Decision:** May 4, 2017

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

Your youngest child should not have been terminated from her Child Health Plus plan in January 2017 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into his Child Health Plus for the months of January 2017 and February 2017.

### **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 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 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:  
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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 20, 2016 eligibility determination and disenrollment notices are **RESCINDED**.

The January 29, 2017 enrollment confirmation notice is **MODIFIED** to state that your youngest child's enrollment in his Child Health Plus plan was effective January 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your youngest child into his Child Health Plus plan for the months of January 2017 and February 2017.

Your youngest child should not have been terminated from her Child Health Plus plan in January 2017 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into his Child Health Plus for the months of January 2017 and February 2017.

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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।

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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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