



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

## Notice of Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP0000000019535

[REDACTED]

Dear [REDACTED],

On September 5, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's May 22, 2017 eligibility determination notice and May 22, 2017 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 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  
Albany, NY 12211

## Decision

Decision Date: September 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019535

[REDACTED]

## 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 May 31, 2017?

Did NY State of Health properly determine that your oldest four children's enrollment in Child Health Plus terminated effective May 31, 2017?

## Procedural History

On February 15, 2017, your youngest child was added to your NY State of Health (NYSOH) account and an updated application was submitted to NYSOH.

On February 16, 2017, NYSOH issued a notice of eligibility determination stating that your oldest four children were eligible for Child Health Plus with a \$9.00 monthly premium per child and that they would remain in their plan with a \$9.00 premium until May 31, 2017, effective March 1, 2017. This same notice also stated that your youngest child was eligible to enroll in Child Health Plus with a \$30.00 monthly premium for a limited time, effective February 1, 2017. The notice requested that you provide documentation confirming your youngest child's citizenship status and Social Security number before May 16, 2017.

Also on February 16, 2017, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan, effective March 1, 2017.

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On April 21, 2017, NYSOH redetermined your children's eligibility for financial assistance. That day, a preliminary eligibility determination was prepared stating that your oldest four children were eligible for Child Health Plus with a \$30.00 monthly premium per child and that your youngest child was eligible for Child Health Plus with a \$30.00 monthly premium, however additional documentation was needed in order to confirm your youngest child's eligibility.

No eligibility determination notice was issued as a result of the April 21, 2017 application.

On April 22, 2017, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan, effective March 1, 2017.

On May 21, 2017, NYSOH redetermined your children's eligibility for financial assistance.

On May 22, 2017, 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. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on May 22, 2017, NYSOH issued an eligibility determination notice stating that your oldest four children were eligible for Child Health Plus with a \$30.00 monthly premium per child, effective July 1, 2017. This notice also directed you to select a plan for enrollment for your oldest four children.

Additionally, on May 22, 2017, NYSOH issued a disenrollment notice stating that all of your children's coverage in their Child Health Plus plan would end effective May 31, 2017. This was because your oldest four children were no longer eligible to enroll in their current Child Health Plus plan and because your youngest child was no longer eligible to enroll in health insurance through NYSOH.

On June 5, 2017, your youngest child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that all of your children were eligible to enroll in Child Health Plus and you selected a plan for their enrollment.

Also on June 5, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan for the month of June 2017.

On June 6, 2017, NYSOH issued an eligibility determination notice based on the June 5, 2017 application, stating that all of your children were eligible to enroll in

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Child Health Plus with a \$30.00 monthly premium per child, effective July 1, 2017.

Also on June 6, 2017, NYSOH issued an enrollment confirmation notice based on the plan selection you made on June 5, 2017, stating that your children were enrolled in a Child Health Plus plan with a plan enrollment start date of July 1, 2017.

On September 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. 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) You testified that you are only appealing your children's disenrollment from their Child Health Plus plan for the month of June 2017.
- 2) The record indicates that your youngest child was added to your NYSOH account on February 15, 2017. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a Social Security number because you were in the process of applying for one.
- 3) You testified that you could not recall when you received your youngest child's Social Security number.
- 4) You testified that you did not know your children had been disenrolled from their Child Health Plus plan until you took them to a doctor's appointment on [REDACTED] or [REDACTED] at which time, you were advised that your children had no coverage.
- 5) You testified that you did not receive a renewal notice or any other notice between February 1, 2017 and June 5, 2017 advising you that you would need to update your oldest four children's application for health insurance. Your NYSOH account reflects that no such renewal notice was ever issued.
- 6) Your NYSOH account reflects that at no time during 2017 were your older four children found ineligible for Child Health Plus.
- 7) The evidence packet created by NYSOH indicates that your children were disenrolled from their Child Health Plus plan for "failure to comply with the Medicaid rules".

- 8) The eligibility determination notice issued on February 16, 2017 indicates that your oldest four children would be enrolled in Child Health Plus with a \$9.00 monthly premium per child from March 1, 2017 through May 31, 2017, and enrolled in Child Health plus with a \$30.00 monthly premium per child from June 1, 2017 through February 28, 2018. This notice also stated that your children's Child Health Plus must be renewed every year and that NYSOH would contact you if additional information was needed to complete your children's renewal.
- 9) The record indicates that on June 5, 2017 your youngest child's Social Security number was added to your NYSOH account.

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 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 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).

#### Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the

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coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in Child Health Plus terminated effective May 31, 2017.

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 February 15, 2017. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on February 16, 2017 you were advised that your youngest child's eligibility for Child Health Plus was limited, and that you needed to confirm her Social Security number and citizenship status before May 16, 2017.

You testified that you could not recall when you received your youngest child's Social Security number. The record indicates that NYSOH did not have her Social Security number before the May 16, 2017 deadline.

On May 22, 2017, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective May 31, 2017 because she 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 her 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 youngest child from her Child Health Plus plan was



dated May 22, 2017. Therefore, the notice terminating your child's enrollment would be considered received as of May 27, 2017.

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 July 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 June 2017 and the May 22, 2017 eligibility determination notice and disenrollment notice are RESCINDED insofar as they found your youngest child ineligible for and disenrolled from her Child Health Plus plan as of May 31, 2017.

The second issue is whether NYSOH properly determined that your oldest four children's enrollment in Child Health Plus terminated effective May 31, 2017.

The May 22, 2017 disenrollment notice indicates that your oldest four children's coverage in their Child Health Plus plan would end on May 31, 2017. This was because your children were no longer eligible to remain enrolled in their current Child Health Plus plan. No further information was provided in the May 22, 2017 notices regarding the basis for your oldest four children's disenrollment from their Child Health Plus plan.

The evidence packet created by NYSOH indicates that your children were terminated from Child Health Plus effective May 31, 2017 for "failure to comply with Medicaid rules".

Your NYSOH account reflects that your four oldest children remained eligible for Child Health Plus during the month of June 2017.

The eligibility determination issued by NYSOH on February 16, 2017 indicated that your oldest four children would remain eligible for Child Health Plus with a \$9.00 monthly premium per child from March 1, 2017 through May 31, 2017 and a \$30.00 monthly premium per child from June 1, 2017 through February 28, 2017. This notice further stated that NYSOH would contact you if additional information was needed in order to complete your children's Child Health Plus renewal.

You testified, and your NYSOH account reflects, that between February 15, 2017 and June 5, 2017 you were not sent a renewal notice advising you that you needed to update your oldest four children's application for coverage.

On April 21, 2017, NYSOH redetermined your children's eligibility for financial assistance. That day, a preliminary determination was made that your children were eligible for Child Health Plus with a \$30.00 monthly premium per child. Your NYSOH account reflects that no notice was ever sent to you regarding this redetermination.

While it is unclear from the record why your oldest four children were disenrolled from their Child Health Plus plan as of May 31, 2017, if this disenrollment was a result of your children being found eligible for Child Health Plus with a \$30.00 monthly premium, this disenrollment was improper.

NYSOH is required to issue a notice of eligibility determination following a redetermination of eligibility. As NYSOH failed to issue a notice of eligibility determination following the April 21, 2017 eligibility redetermination, you were not properly notified that you would need to select a plan for enrollment for your children until the May 22, 2017 eligibility determination notice.

However, if your oldest four children were disenrolled from their Child Health Plus plan as of May 31, 2017 as a result of your youngest child being disenrolled from her Child Health Plus plan, as your youngest child should not have been disenrolled from her Child Health Plus plan, this should not have resulted in your oldest four children being disenrolled from their Child Health Plus plan.

Therefore, the May 22, 2017 disenrollment notice is RESCINDED insofar as it disenrolled your oldest four children from their Child Health Plus plan as of May 31, 2017.

## **Decision**

The May 22, 2017 eligibility determination notice stating that your youngest child was not eligible to enroll in coverage through NYSOH is RESCINDED.

The May 22, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of June.

**Effective Date of this Decision:** September 11, 2017

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

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

Your oldest four children should not have been terminated from their Child Health Plus plan for June 2017.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of June 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 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 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 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 May 22, 2017 eligibility determination notice stating that your youngest child was not eligible to enroll in coverage through NYSOH is RESCINDED.

The May 22, 2017 disenrollment notice is RESCINDED.

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

Your oldest four children should not have been terminated from their Child Health Plus plan for June 2017.

Your case is RETURNED to NYSOH to reinstate your children into their Child Health Plus plan for the month of June.

## **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。我们可以为您免费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)

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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 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.

### **שׂוֹדֵשׁ (Yiddish)**

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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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