



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

## Notice of Decision

Decision Date: September 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019694

[REDACTED]

Dear [REDACTED]

On September 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's April 8, 2017 discontinuance and plan disenrollment 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 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: September 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000019694

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your enrollment in your Essential Plan, and your child's enrollment in his Child Health Plus plan terminated effective April 30, 2017?

## Procedural History

On February 13, 2017, NY State of Health (NYSOH) received your application for financial assistance with health insurance.

On February 14, 2017, NYSOH issued an eligibility determination stating that you were eligible to enroll in an Essential Plan with a \$20.00 monthly premium, and that your child was eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective March 1, 2017.

On February 19, 2017, NYSOH issued a plan enrollment notice, based on your February 13, 2017 plan selection, confirming your enrollment in an Essential Plan with a dental plan, and your child's enrollment in a Child Health Plus plan, effective March 1, 2017.

On March 2, 2017, the February 19, 2017 enrollment confirmation notice was returned to NYSOH as not deliverable as addressed. On April 8, 2017, the returned mail was uploaded to your NYSOH account.

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On April 8, 2017, NYSOH issued a discontinuance notice stating that you and your child were no longer eligible for health insurance through NYSOH, effective May 1, 2017, because notices regarding your and your child's eligibility and coverage sent to you by NYSOH were returned to the Marketplace as undeliverable. This notice also stated that you needed to update your mailing address so that you and your child could remain eligible for health coverage through NYSOH.

Also on April 8, 2017, NYSOH issued a plan disenrollment notice confirming that your Essential Plan coverage with a dental plan and your child's Child Health Plus plan would end as of April 30, 2017.

On April 17, 2017, the April 8, 2017 eligibility determination and disenrollment notices was returned to NYSOH as not deliverable as addressed. On May 8, 2017, the returned mail was uploaded to your NYSOH account.

On June 3, 2017, NYSOH received your updated application for financial assistance with health insurance which included an updated address.

On June 4, 2017, NYSOH issued an eligibility determination stating that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, for a limited time, and that your child was eligible for a Child Health Plus plan with a \$9.00 monthly premium, effective July 1, 2017. This notice also stated that you needed to submit income documentation to confirm your eligibility by September 1, 2017.

Also on June 4, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan with a dental plan, and your child's enrollment in a Child Health Plus plan with a \$9.00 monthly premium, effective July 1, 2017.

On June 13, 2017, you spoke to NYSOH's Accounts Review Unit and appealed the start date of your Essential Plan with the dental plan and your child's Child Health Plus plan in so far as your coverage started on July 1, 2017 and not May 1, 2017.

On June 13, 2017, you appeared for a hearing with Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing, and held open until September 25, 2017 to allow you time to submit supporting documentation.

As of the end of business day on September 25, 2017, NYSOH's Appeals Unit had not received any documentation from you, nor was there any viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## Findings of Fact

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

- 1) You testified that you are appealing your disenrollment from your Essential Plan with the dental plan and your child's disenrollment from his Child Health Plus plan, effective April 30, 2017.
- 2) You testified, and the record reflects, that you received help applying for your and your child's health insurance from an application counselor.
- 3) You testified, and the record reflects, that you were enrolled in an Essential Plan with a dental plan, and that your child was enrolled in a Child Health Plus plan, effective March 1, 2017.
- 4) The record indicates that you were disenrolled from your Essential Plan with a dental plan, and your child was disenrolled from his Child Health Plus plan, effective April 30, 2017.
- 5) According to your NYSOH account, the February 19, 2017 plan enrollment notice was returned as undeliverable on March 2, 2017.
- 6) The record reflects that all notice sent to you on February 19, 2017 was addressed to: [REDACTED].
- 7) You testified that this address was incorrect, and that you gave the application counselor your correct address before she submitted an application on February 13, 2017.
- 8) You testified that your correct address is: [REDACTED].
- 9) There is no indication in the record that your application counselor attempted to update the address in your NYSOH before running your application on February 13, 2017 and this account contained your old address.
- 10) You testified that you would like to have your Essential Plan and your child's Child Health Plus plan reinstated for the month of May 2017 and June 2017 because you have unpaid medical bills from those months.

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

## **Applicable Law and Regulations**

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

### Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

To be eligible for enrollment in a Child Health Plus plan through the New York State of Health, one of the non-financial requirements is that the applicant must be a resident of New York State (NY Public Health Law § 2511(e)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child’s family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your enrollment in your Essential Plan and your child's enrollment in his Child Health Plus plan terminated effective April 30, 2017.

For an applicant to remain eligible for enrollment in an Essential Plan and a Child Health Plus plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a New York State resident.

According to your NYSOH account, on February 19, 2017, NYSOH issued a plan enrollment notice that was returned as undeliverable on March 2, 2017. This returned notice were uploaded to your account on April 8, 2017.

As a result, you were subsequently disenrolled from you Essential Plan and your child was subsequently disenrolled from his Child Health Plus plan because NYOSH received mail addressed to you that was undeliverable; therefore, the system assumed that you and your child no longer met the state residency requirement for enrollment in an Essential Plan and a Child Health Plus plan. As such, on April 8, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice, stating that you and your child were no longer eligible to enroll in a health insurance through NYSOH and your and your child's coverage would end effective April 30, 2017.

However, a review of the record, along with your testimony, reflects that you received help from an application counselor when completing your application on February 13, 2017. You testified that you gave the application counselor your updated address prior to submitting your February 13, 2017 application.

However, the application counselor submitted an application on your behalf through your NYSOH account but with your outdated address. There is no indication in the record that your application counselor attempted to change the mailing address your NYSOH account prior to submitting the application on February 13, 2017.

Based on the credible evidence of the record, it is reasonable to conclude that the address that was listed in your account was incorrect through no fault of your own, and was the result of an error of the application counselor that was helping you submit an application. As a result, it is reasonable to conclude that your disenrollment from your Essential Plan and your child's disenrollment from his Child Health Plus plan was in error.

Therefore, the April 8, 2017 discontinuance notice and April 8, 2017 plan disenrollment notice must be **RESCINDED**.

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 you in your Essential Plan with a \$20.00 monthly premium, and your dental plan with a \$12.97 monthly premium, effective May 1, 2017 and your child in his Child Health Plus plan with a \$9.00 monthly premium as of May 1, 2017, and to notify you accordingly.

## **Decision**

The April 8, 2017 discontinuance notice is RESCINDED.

The April 8, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

**Effective Date of this Decision:** September 29, 2017

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

Your case is sent back to NYSOH to reinstate you in your Essential Plan with a \$20.00 monthly premium as of May 1, 2017.

Your case is sent back to NYSOH to reinstate you in your dental plan with a \$12.61 monthly premium as of May 1, 2017.

Your case is sent back to NYSOH to reinstate your child in his Child Health Plus plan with a \$9.00 monthly premium as of May 1, 2017.

NYOSH will notify you once this changes has been completed.

It is your responsibility to pay the monthly premium directly to your Essential Plan and your child's Child Health Plus plan in order for coverage to start as of May 1, 2017.

This decision has no effect on your current eligibility.

## **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.

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).



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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

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).

The April 8, 2017 discontinuance notice is RESCINDED.

The April 8, 2017 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

Your case is sent back to NYSOH to reinstate you in your Essential Plan with a \$20.00 monthly premium as of May 1, 2017.

Your case is sent back to NYSOH to reinstate you in your dental plan with a \$12.61 monthly premium as of May 1, 2017.

Your case is sent back to NYSOH to reinstate your child in his Child Health Plus plan with a \$9.00 monthly premium as of May 1, 2017.

NYOSH will notify you once these changes has been completed.

It is your responsibility to pay the monthly premium directly to your Essential Plan and your child's Child Health Plus plan in order for coverage to start as of May 1, 2017.

This decision has no effect on your current eligibility.

## **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 مجاناً.

### **বাংলা (Bengali)**

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).

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।

### **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 b&tumi ama wo obi a okyerε 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.

### **שׂוֹדֵיט (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.

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).