



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

## Notice of Decision

Decision Date: October 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020331

[REDACTED]

Dear [REDACTED],

On September 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 29, 2017 eligibility determination and 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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## Decision

Decision Date: October 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000020331

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly determine that your children's eligibility for and enrollment in Child Health Plus terminated effective May 31, 2017?

## Procedural History

On December 15, 2016, NYSOH issued an eligibility determination notice stating that your child, [REDACTED], was eligible to enroll in Child Health Plus (CHP) with a \$15.00 monthly premium, effective January 1, 2017.

Also on December 15, 2016, NYSOH issued an enrollment notice confirming your child's enrollment in a CHP plan as of December 14, 2016. The notice state that your child's CHP coverage had begun as of June 1, 2016.

On February 21, 2017, NYSOH received an updated application, in which you added your newborn child [REDACTED], to your NYSOH account.

On February 22, 2017, NYSOH issued a notice of eligibility determination stating that your newborn child was conditionally eligible to enroll in CHP with a \$15.00 monthly premium, effective February 1, 2017. The notice requested that you provide documentation confirming his citizenship status and Social Security number by May 22, 2017.

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Also on February 22, 2017, NYSOH issued a notice confirming your children's enrollment in their CHP plan as of February 21, 2017. The notice stated that their coverage began as of April 1, 2017.

On May 29, 2017, NYSOH issued an eligibility determination notice stating that your newborn child was not eligible for Medicaid, Child Health Plus, 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 citizenship status and social security number within the required timeframe.

Also on May 29, 2017, NYSOH issued a disenrollment notice stating that your both of your children's coverage in their CHP plan would end effective May 31, 2017 because they were no longer eligible to enroll in health insurance through NYSOH.

On June 20, 2017, your child's Social Security number was added to your NYSOH account.

On June 21, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in CHP with a \$30.00 monthly premium each. The notice clarified that your older child's CHP plan coverage would remain at \$15.00 per month until March 31, 2018. This eligibility determination was effective August 1, 2017.

Also on June 21, 2017, NYSOH issued an enrollment notice stating that your children were enrolled in a CHP plan with an enrollment start date of August 1, 2017.

On July 7, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their CHP plan during the months of June and July 2017.

On September 29, 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 appealing your children's disenrollment from their CHP plan for the months of June and July 2017.

- 2) Your NYSOH account reflects that your older child was enrolled in CHP plan coverage as early as June 1, 2016.
- 3) Your newborn child was born on [REDACTED].
- 4) The record indicates that your newborn child was added to your NYSOH account on February 21, 2017. The application that was submitted that day indicates that he was a U.S Citizen but did not yet have a Social Security number because you were in the process of applying for one.
- 5) You testified that you previously received all your notices from NYSOH by electronic alerts, and only recently switched that election to regular mail when you had filed you appeal.
- 6) You testified that you did not receive any alert by email indicating that there was a new notice on your NYSOH account in February 2017 requesting that you provider your newborn child's Social Security number by May 22, 2017.
- 7) You testified that you became aware that your children had been disenrolled from their CHP plan in you incurred out-of-pocket expenses from their [REDACTED] visits to their physician during June 2017.
- 8) You testified, and your NYSOH account reflects, that you provided your newborn child's Social Security number to NYSOH in your June 21, 2017 application update.

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

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- Must not be eligible for, or enrolled in, Medicaid

(NY Public 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 five-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 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).

## Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in their CHP plan coverage 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 newborn child was added to your NYSOH account on February 21, 2017. The application that was submitted that day indicates that he was a U.S Citizen but did not yet have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on February 22, 2017 you were advised that your newborn child's eligibility for CHP was only conditional, and that you needed to confirm his Social Security number and citizenship status before May 22, 2017

Because there was no timely response to this notice, your newborn child was terminated from his Child Health Plus plan, effective May 31, 2017. Furthermore, NYSOH disenrolled your older child from his CHP plan coverage as well, effective May 31, 2017, even though his eligibility for that program was not conditional.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive

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an electronic alert regarding the eligibility determination, which directed you to update the information in your NYSOH account on behalf of your newborn child. There is no evidence in your account documenting that any email alert was sent to you regarding the need to provide documents to confirm your newborn child's Social Security number and citizenship status, or that any letter was sent.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to update your account on your newborn child's behalf. Furthermore, the record does not support a disenrollment of your older child's CHP plan coverage even if such a notice was properly issued, because his eligibility was not subject to the providing of additional documentation.

Accordingly, the May 29, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children's CHP plan coverage during the months of June and July 2017.

## **Decision**

The May 29, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your children's CHP plan coverage during the months of June and July 2017.

**Effective Date of this Decision:** October 12, 2017

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

Your children should not have been terminated from their CHP plan during the month of June and July 2017 for failure to submit proof of your newborn child's citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your children's CHP plan coverage during the months of June and July 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.

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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:  
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- By fax: 1-855-900-5557

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## **Summary**

The May 29, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your children should not have been terminated from their CHP plan during the month of June and July 2017 for failure to submit proof of your newborn child's citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your children's CHP plan coverage during the months of June and July 2017.

## **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)

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&btumi 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.

## **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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