



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

## Notice of Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021095

[REDACTED]

Dear [REDACTED],

On October 16, 2017, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's March 23, 2017 enrollment confirmation notice, and June 27, 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.

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## Decision

Decision Date: October 20, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021095

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your youngest child's enrollment in her Child Health Plus (CHP) plan was effective April 1, 2017?

Did NYSOH properly determine that your child's eligibility for, and enrollment in, her CHP coverage terminated effective June 30, 2017?

## Procedural History

On March 22, 2017, your youngest child was added to your NYSOH account and an application was submitted on her behalf.

On March 23, 2017, NYSOH issued a notice of eligibility determination stating that your youngest child was eligible to enroll in CHP, for a limited time, with a \$30.00 per month premium, effective March 1, 2017. The notice requested that you provide documentation confirming her citizenship status and Social Security number before June 20, 2017.

Also on March 23, 2017, NYSOH issued a notice confirming your child's enrollment in a CHP plan, effective April 1, 2017.

On June 27, 2017, NYSOH issued an eligibility determination notice stating that your youngest child was not eligible for Medicaid, CHP, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could

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not enroll in a qualified health plan at full cost. This was because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on June 27, 2017, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end, effective June 30, 2017, because she was no longer eligible to enroll in health insurance through NYSOH.

On August 2, 2017, your youngest child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that your youngest child was eligible to enroll in CHP, and you selected a plan for her enrollment.

Also on August 2, 2017, you spoke to NYSOH's Account Review Unit and appealed your youngest child's disenrollment from her CHP plan in the months of July and August 2017.

On August 3, 2017, NYSOH issued an eligibility determination notice stating that your youngest child was eligible to enroll in CHP with a \$45.00 per month premium, effective September 1, 2017.

Also on August 3, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a CHP plan, beginning September 1, 2017.

On October 16, 2017, your spouse, [REDACTED], appeared at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, your spouse clarified that you were also appealing the start date of your child's CHP coverage, in that it did not start the month of her birth. 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) The record indicates that your youngest child was added to your NYSOH account on March 22, 2017, after her birth on [REDACTED].
- 2) The application that was submitted on March 22, 2017 indicated that your youngest child was a US Citizen, but she did not have a Social Security number because you were in the process of applying for one.
- 3) Your spouse testified that she remembered being asked for your youngest child's Social Security number, but that it was only a few days after she had given birth, and because of everything else that

was going on, she forgot to provide it when she received the Social Security card.

- 4) Your spouse testified that, in late May, she paid your youngest child's CHP premiums for June and July 2017, and had no idea that her coverage was going to be terminated at the end of June 2017.
- 5) Your spouse testified that you were all out of the country for [REDACTED] in July 2017, and did not know that there was a problem with your youngest child's coverage until you returned.
- 6) Your spouse testified that, after returning home on [REDACTED], she received a phone call from your youngest child's pediatrician regarding an upcoming appointment, and that the pediatrician informed her that your child's coverage was not active.
- 7) Your spouse testified that, around that time, she discovered that NYSOH had issued a disenrollment notice which arrived in the mail while you were all out of the country, stating that your youngest child's coverage ended on June 30, 2017.
- 8) Your NYSOH account reflects that a disenrollment notice was issued on June 27, 2017, terminating your youngest child's coverage as of June 30, 2017 because NYSOH did not receive proof of her citizenship and Social Security number.
- 9) Your spouse testified that she called NYSOH immediately to provide your youngest child's Social Security number, and that she also reenrolled her in a CHP plan.
- 10) Your NYSOH account reflects that, on August 2, 2017, your youngest child's Social Security number was added to your NYSOH account, and a CHP plan was selected on her behalf.
- 11) Your spouse testified that you do not have any outstanding medical bills for your youngest child from the months of July and August, but that you are concerned about any tax consequences stemming from her lack of coverage in those months.
- 12) Your spouse also testified that she realized sometime in May or June 2017, when she received bills for medical appointments your youngest child had in March 2017, that your child's coverage had not been backdated to March 1, 2017.

- 13) Your spouse testified that she has outstanding medical bills from March 2017 because your youngest child's coverage was not backdated.

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

## **Applicable Law and Regulations**

### Child Health Plus Effective Date

CHP is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

The "period of eligibility" for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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 e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into CHP, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015). However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017.

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(S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

### Child Health Plus Eligibility

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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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 CHP, 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 NYSOH 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 may not require an applicant's Social Security number as a condition of enrollment for CHP 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, NYSOH 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 CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide

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sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow CHP coverage to continue without interruption (42 CFR § 457.340(e)(2); 42 CFR § 457.1130(a)(3)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that your youngest child's enrollment in her CHP plan was effective April 1, 2017.

Your youngest child was born [REDACTED], and on March 22, 2017, she was added to your NYSOH account. She was found eligible for enrollment in CHP, and a plan was selected that same day, with an enrollment start date of April 1, 2017.

In New York State, the date on which a CHP plan can take effect typically depends on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

However, section 2511 of the Public Health Law has been amended to provide that CHP coverage shall be retroactive to the first of the month of birth for newborns, effective January 1, 2017, provided that the application for coverage on behalf of the child was made prior to, or within sixty days of, the child's birth.

Your application and CHP enrollment selection for your youngest child were received by NYSOH on March 22, 2017, which was within sixty days of her birth. Therefore, NYSOH properly determined that your youngest child's eligibility for CHP coverage began as of March 1, 2017, as that is the first of the month of your child's birth.

However, it appears NYSOH failed to likewise backdate your youngest child's enrollment to March 1, 2017, in that the March 23, 2017 enrollment confirmation notice provides for an enrollment start date of April 1, 2017. This is not correct, as your child was eligible to have her coverage begin on the first day of the month in which she was born.

Therefore, the March 23, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP coverage began on March 1, 2017.

The second issue under review is whether NYSOH properly determined that your youngest child's eligibility for, and enrollment in, her CHP coverage terminated effective June 30, 2017.

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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 March 22, 2017. The application that was submitted that day indicated 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 March 23, 2017, you were advised that your child's eligibility for CHP was for a limited time only, and that you needed to confirm her Social Security number and citizenship status before June 20, 2017.

Your spouse testified that she recalled being asked for your youngest child's Social Security number, and that she remembers informing NYSOH that she did not yet have one, but would call back to provide it. Your spouse testified that this conversation took place only a few days after she gave birth, and that, by the time she received your youngest child's Social Security card, she had forgotten that she needed to provide it to NYSOH. The record indicates that NYSOH did not have her Social Security number before the June 20, 2017 deadline.

On June 27, 2017, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her CHP plan would end effective June 30, 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 CHP 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 CHP plan was dated June 27, 2017. Therefore, the notice terminating your child's enrollment would be considered received as of July 2, 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 CHP eligibility after the 15<sup>th</sup> of the month, any changes you would have made to your account would not have been

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effective until at least August 1, 2017, and therefore you would have been unable to prevent a gap in coverage.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to take action in order to prevent a gap in CHP coverage for your child, and the June 27, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to backdate your youngest child's enrollment in her CHP plan to March 1, 2017, AND to reinstate your youngest child in her CHP coverage for the months of July and August 2017.

You will be responsible for any outstanding premiums that come due because of these changes.

## **Decision**

The March 23, 2017 eligibility determination is AFFIRMED.

The March 23, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP plan began on March 1, 2017.

The June 27, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to backdate your youngest child's CHP coverage to March 1, 2017.

Your case is RETURNED to NYSOH to reinstate your youngest child into her CHP plan for the months of July and August 2017.

You will be responsible for any premium payments that come due as a result of these changes.

**Effective Date of this Decision:** October 20, 2017

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

Your youngest child's eligibility for CHP began on March 1, 2017.

Your youngest child's enrollment in her CHP plan should have started on March 1, 2017.

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Your youngest child's CHP coverage should not have been terminated in July and August 2017 for failure to submit proof of her citizenship status and Social Security number.

Your case is being sent back to NYSOH to backdate your youngest child's enrollment in her CHP plan to March 1, 2017.

Your case is also being sent back to NYSOH to reinstate your child into her CHP plan for the months of July and August 2017.

You will be responsible for any outstanding premiums.

### **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

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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):**

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 23, 2017 eligibility determination is AFFIRMED.

The March 23, 2017 enrollment confirmation notice is MODIFIED to state that your youngest child's enrollment in her CHP plan began on March 1, 2017.

The June 27, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to backdate your youngest child's CHP coverage to March 1, 2017.

Your case is RETURNED to NYSOH reinstate your youngest child into her CHP plan for the months of July and August 2017.

Your youngest child's eligibility for CHP began on March 1, 2017.

Your youngest child's enrollment in her CHP plan should have started on March 1, 2017.

Your youngest child's CHP coverage should not have been terminated in July and August 2017 for failure to submit proof of her citizenship status and Social Security number.

Your case is being sent back to NYSOH to backdate your youngest child's enrollment in her CHP plan to March 1, 2017.

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Your case is also being sent back to NYSOH to reinstate your child into her CHP plan for the months of July and August 2017.

You will be responsible for any outstanding premiums.

### **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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