



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

## Notice of Decision

Decision Date: October 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021121

[REDACTED]

Dear [REDACTED],

On October 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 29, 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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## Decision

Decision Date: October 25, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021121



## 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 newborn child's eligibility for and enrollment in her Child Health Plus plan terminated effective August 1, 2017?

## Procedural History

On April 24, 2017, your newborn child was added to your NY State of Health (NYSOH) account and an application was submitted on her behalf.

On April 25, 2017, NYSOH issued a notice of eligibility determination stating that your newborn child was conditionally eligible to enroll in full price Child Health Plus plan, effective April 1, 2017. The notice requested that you provide documentation confirming her citizenship status and Social Security number before July 23, 2017.

Also on April 25, 2017, NYSOH issued a plan enrollment notice confirming your newborn child's enrollment in a Child Health Plus plan, effective April 1, 2017.

On July 29, 2017, NYSOH issued a discontinuance notice stating that your newborn child was not eligible for health insurance through NYSOH, effective August 1, 2017, because you had not confirmed her citizenship status and Social Security number within the required timeframe.

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Also on July 29, 2017, NYSOH issued a disenrollment notice stating that your newborn child's coverage in her Child Health Plus plan would end, effective July 31, 2017, because she is no longer eligible to enroll in health insurance through NYSOH.

On August 3, 2017, your newborn child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that your newborn child was eligible to enroll in full price Child Health Plus plan and you selected a plan for her enrollment.

Also on August 3, 2017, you spoke to NYSOH's Account Review Unit and appealed your newborn child's disenrollment from her Child Health Plus plan in the month of August 2017.

On August 4, 2017, NYSOH issued an eligibility determination notice based on the August 3, 2017 application, stating that your newborn child was eligible to enroll in full price Child Health Plus plan, effective September 1, 2017.

Also on August 4, 2017, NYSOH issued a plan enrollment confirmation notice based on the plan selection you made on August 3, 2017, stating that your newborn child was enrolled in a Child Health Plus plan, effective September 1, 2017.

On October 18, 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 newborn child's disenrollment from her Child Health Plus plan for the month of August 2017.
- 2) The record indicates that your newborn child was added to your NYSOH account on April 24, 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 received her Social Security number in May 2017, but you did not update the account with her Social Security number because you were not aware that you had to.

- 4) You testified that you did not know your newborn child had been disenrolled from her Child Health Plus plan until you received the discontinuance and plan disenrollment notices in the mail.
- 5) The record indicates that on August 3, 2017, your youngest child's Social Security number was added to your NYSOH account.
- 6) You testified that you appealed because you do not believe it is fair that you were not given any notice that your newborn child was going to be disenrolled from coverage until after it had already happened, and, at that point, there was nothing you could do to rectify the problem.

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

## **Applicable Law and Regulations**

### Child Health Plus

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

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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).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your newborn child's eligibility for and enrollment in her Child Health Plus plan terminated effective August 1, 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 April 24, 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 April 25, 2017, you were advised that your newborn child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her citizenship status and Social Security number before July 23, 2017.

You testified that you received your child's Social Security number on May 11, 2017. However, the record indicates that NYSOH did not have her Social Security number before the July 23, 2017 deadline.

As a result, on July 29, 2017, NYSOH issued a discontinuance notice and a plan disenrollment notice stating that your newborn child was no longer eligible for health insurance through NYSOH, effective August 1, 2017, and that your newborn child's coverage in her Child Health Plus plan would end effective July 31, 2017 because she was no longer eligible to enroll in health insurance through NYSOH. According to the discontinuance notice 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 newborn child from her Child Health Plus plan was dated July 29, 2017. Therefore, the notice terminating your child's enrollment would be considered received as of August 3, 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 September 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 child for the month of August 2017 and the July 29, 2017 discontinuance and plan disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your newborn child into her Child Health Plus plan for the month of August 2017, and to notify you accordingly.

## **Decision**

The July 29, 2017 discontinuance and plan disenrollment notices are

██████████.

Your case is ██████████ to NYSOH to reinstate your newborn child into her Child Health Plus plan for the month of August 2017, and to notify you accordingly.

**Effective Date of this Decision:** October 25, 2017

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

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

Your case is being sent back to NYSOH to reinstate your newborn child into her Child Health Plus for the month of August 2017. NYSOH will inform you once this has been done.

You will be responsible for any premium payments for all months your newborn child is enrolled into coverage.

## **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:

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).



- 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**

The July 29, 2017 discontinuance and plan disenrollment notices are



Your case is RETURNED to NYSOH to reinstate your newborn child into her Child Health Plus plan for the month of August 2017, and to notify you accordingly.

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

Your case is being sent back to NYSOH to reinstate your newborn child into her Child Health Plus for the month of August 2017. NYSOH will inform you once this has been done.

You will be responsible for any premium payments for all months your newborn child is enrolled into coverage.

### **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 مجانًا.

### **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.

## **שׂוֹדֵיִשׁ (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).