



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

## Notice of Decision

Decision Date: November 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021497



On October 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 29, 2017 discontinuance 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: November 29, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021497



## 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 two middle children's eligibility for and enrollment in Child Health Plus terminated effective June 30, 2017?

## Procedural History

On October 11, 2016, NYSOH received your children's application for financial assistance with their health insurance.

On October 12, 2016, NYSOH issued a notice of eligibility determination stating your children were conditionally eligible to enroll in Child Health Plus, effective November 1, 2016. The notice requested you provide proof of your three oldest children's Citizenship Status and Social Security Number as well as the household's income for your youngest child by January 9, 2017.

Also on October 12, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in Child Health Plus effective November 1, 2016.

On January 16, 2017, NYSOH issued an eligibility redetermination notice stating your three oldest children's eligibility was redetermined on January 15, 2017. The notice stated your children were determined no longer eligible for health insurance through NYSOH, effective February 1, 2017.

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On January 16, 2017, NYSOH issued a disenrollment notice stating your three oldest children's coverage in their Child Health Plus plan would end on January 31, 2017. The notice stated this was because they were no longer eligible to enroll in health insurance through NYSOH.

On March 25, 2017, NYSOH issued an eligibility determination notice stating your three oldest children were conditionally eligible for Child Health Plus, effective May 1, 2017, the notice requested that you provide proof of their Citizenship Status and Social Security Number by June 22, 2017.

On March 25, 2017, NYSOH issued an enrollment notice confirming your three oldest children's enrollment in a Child Health Plus plan on March 24, 2017, with an effective date of May 1, 2017.

On March 29, 2017, NYSOH issued a disenrollment notice confirming your children's disenrollment from their Child Health Plus plan, effective February 28, 2017. The notice stated this was because you did not pay your insurance bill by the payment deadline.

On March 30, 2017, NYSOH issued an eligibility determination notice stating your three oldest children were eligible for Child Health Plus for a limited time, effective May 1, 2017. The notice requested you provide proof of Citizenship Status and Social Security Number by June 22, 2017.

On March 30, 2017, NYSOH issued an enrollment notice confirming your children's enrollment in a Child Health Plus plan, effective May 1, 2017.

On April 11, 2017, NYSOH received all four of your children's Social Security Card and Birth Certificates.

On April 14, 2017, a NYSOH representative verified all four of your children's Social Security Numbers.

On April 15, 2017, NYSOH issued a notice stating the documentation it reviewed does not confirm the information in your application. The notice requested you send more proof of your three oldest children's Citizenship Status by June 22, 2017.

On April 15, 2017, NYSOH issued an eligibility determination notice stating your three oldest children were eligible for Child Health Plus for a limited time, effective May 1, 2017. The notice requested you provide proof of their Citizenship Status by June 22, 2017.

Also on April 15, 2017, NYSOH issued an enrollment notice confirming your children's enrollment in a Child Health Plus plan effective May 1, 2017.

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On June 29, 2017, NYSOH issued a discontinuance notice stating your two middle children were no longer eligible for health insurance through NYSOH, effective July 1, 2017. The notice stated this was because you did not provide the information to confirm their Citizenship Status.

Also on June 29, 2017, NYSOH issued a disenrollment notice stating your two middle children's enrollment in their Child Health Plus plan would end on June 30, 2017.

On July 1, 2017, NYSOH issued an eligibility determination notice stating your two middle children were eligible for Child Health Plus for a limited time, effective August 1, 2017. The notice requested you provide proof of their Citizenship Status by September 28, 2017.

On July 3, 2017, a NYSOH representative validated your middle children's proof of citizenship status.

On July 4, 2017, NYSOH issued an eligibility determination notice stating all of your children were eligible for Child Health Plus, effective August 1, 2017.

On August 2, 2017, NYSOH issued an enrollment notice confirming your children's enrollment on August 1, 2017 stating your oldest and your youngest children were enrolled in a plan effective May 1, 2017. The notice further stated your two middle children were enrolled in a plan effective September 1, 2017.

On August 16, 2017, you spoke to NYSOH's Account Review Unit and appealed your two middle children's disenrollment from their Child Health Plus plan for the months of July and August 2017.

On October 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open for you to provide additional evidence. On October 20, 2017, NYSOH received a three-page fax which was incorporated into the record as Appellant's Exhibit 1. The record is now closed.

## **Findings of Fact**

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

- 1) You have four children.
- 2) You testified that you are only appealing your two middle children's disenrollment from their Child Health Plus plan for the months of July and August 2017 for failing to provide proof of their Citizenship Status.

- 3) Your four children were added to your NYSOH account on October 11, 2016. The application that was submitted that day indicates that they are U.S. Citizens and they have Social Security numbers which were provided.
- 4) The record shows you provided proof of all four of your children's Social Security cards and certificates of birth to NYSOH on April 11, 2017.
- 5) On April 14, 2017, a NYSOH representative invalidated your three oldest children's proof of citizenship stating that although you provided their US birth certificates, you could provide a school photo ID. The due date was not extended for this request.
- 6) On April 14, 2017, a NYSOH representative verified all four of your children's Social Security Cards as proof of their Social Security number.
- 7) On July 3, 2017, a NYSOH representative verified your two middle children's birth certificates as valid proof of their Citizenship Status.
- 8) You testified that you did not know your two middle children had been disenrolled from their Child Health Plus plans until the middle of August.

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)).

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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).

## **Legal Analysis**

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The issue under review is whether NYSOH properly determined that your two middle children's eligibility for and enrollment in Child Health Plus terminated effective July 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 four children were added to your NYSOH account on October 11, 2016. The application that was submitted that day indicates that they are U.S. Citizens and provided Social Security Numbers for them.

Subsequent applications were provided including one on March 24, 2017.

In the eligibility determination issued on March 25, 2017 you were advised that your three oldest children's eligibility for Child Health Plus was only conditional, and that you needed to confirm their Social Security Number and citizenship status before June 22, 2017. You enrolled them in a Child Health Plus plan for a start date of May 1, 2017.

On April 11, 2017, NYSOH received all four of your children's Social Security Card and Birth Certificates. This documentation was reviewed by a NYSOH representative and determined to be sufficient proof of your children's Social Security Number. However, the documentation of your children's Birth Certificates for your three oldest children were determined to be invalid as proof of their Citizenship Status.

A notice was issued requesting further information for your three oldest children by the previous deadline of June 22, 2017.

On June 29, 2017, NYSOH redetermined your two middle children's eligibility and issued a disenrollment notice stating that their coverage in their Child Health Plus plan would end effective July 1, 2017 because they were 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 their citizenship status.

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

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formally disenrolling your children from their Child Health Plus plan was dated June 29, 2017. Therefore, the notice terminating your children's enrollment would be considered received as of July 4, 2017, after your children's disenrollment.

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 August 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 two middle children for the month of July 2017.

On July 3, 2017, a NYSOH representative validated your middle children's proof of citizenship status using the same documentation of their Birth Certificates which had been previously determined invalid proof on April 14, 2017. Therefore, your children were erroneously disenrolled from their coverage.

Since the record supports you provided sufficient documentation of proof of your two middle children's citizenship status, and they were disenrolled from their Child Health Plus plan without proper notification to you in order for you to take action to prevent a gap in coverage, the June 29, 2017, eligibility redetermination and disenrollment notices terminating their eligibility and enrollment June 30, 2017 are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your two middle children into their Child Health Plus plan for the months of July and August 2017, and to notify you accordingly.

## **Decision**

The June 29, 2017, eligibility redetermination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your two middle children into their Child Health Plus plan for the months of July and August 2017 and to notify you accordingly.

**Effective Date of this Decision:** November 29, 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 children should not have been terminated from their Child Health Plus plan in July and August for failure to submit proof of their citizenship status.

Your case is being sent back to NYSOH to reinstate your two middle children into their Child Health Plus for the months of July and August 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 Have Questions about this Decision (Customer Service Resources):**

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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P.O. Box 11729  
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- By fax: 1-855-900-5557

## **Summary**

The June 29, 2017, eligibility redetermination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your two middle children into their Child Health Plus plan for the months of July and August 2017 and to notify you accordingly.

Your children should not have been terminated from their Child Health Plus plan in July and August for failure to submit proof of their citizenship status.

Your case is being sent back to NYSOH to reinstate your two middle children into their Child Health Plus for the months of July and August 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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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 bɛtumi ama wo obi a okyerɛ 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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