



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

## Notice of Decision

Decision Date: November 8, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021919

[REDACTED]

[REDACTED]

On November 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 24, 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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DEPARTMENT OF HEALTH  
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## Decision

Decision Date: November 8, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021919

[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, their Child Health Plus (CHP) coverage terminated effective August 31, 2017?

## Procedural History

On August 7, 2017, you updated your NYSOH account. This included an update to your mailing and residential address.

On August 8, 2017, NYSOH issued a notice of eligibility determination stating that your three children were eligible for CHP with a monthly premium of \$9.00 each through June 30, 2018, effective September 1, 2017.

Also on August 8, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning July 1, 2017.

That same day, NYSOH issued a notice confirming that you had changed your mailing address to: [REDACTED]

On August 24, 2017, NYSOH issued a discontinuance notice, stating that your children were no longer eligible to enroll in coverage through NYSOH, effective October 1, 2017, because mail was sent to you at the mailing address provided in your account, and returned to NYSOH as undeliverable.

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Also on August 24, 2017, NYSOH issued a notice of disenrollment, stating that your children's coverage in their CHP plan was ending, effective August 31, 2017, because they were no longer eligible to enroll in coverage through NYSOH.

On August 28, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that your children were eligible for CHP with a \$15.00 monthly premium each, effective October 1, 2017.

Also on August 28, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their CHP coverage in the month of September 2017.

On August 29, 2017, NYSOH issued a notice of eligibility determination, stating that your children were eligible to enroll in CHP with a \$15.00 monthly premium each, effective October 1, 2017.

That same day, NYSOH also issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning October 1, 2017.

On November 2, 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 month of September 2017.
- 2) Your NYSOH account indicates that you updated your account on August 7, 2017, and that your children remained eligible for CHP after that update.
- 3) You testified that you updated your address with NYSOH on August 8, 2017. Your NYSOH account indicates that your address was updated on August 7, 2017 to [REDACTED]
- 4) On August 8, 2017, NYSOH issued two notices to your new mailing address, as stated above [REDACTED]
- 5) On August 17, 2017, these notices were returned to NYSOH by the United States Post Office with a label stating, "Return to Sender, Not

Deliverable as Addressed; Unable to Forward.” NYSOH uploaded these returned notices, to your NYSOH account on August 23, 2017

- 6) Your NYSOH account reflects that, on August 23, 2017, a NYSOH agent marked your mailing address as invalid.
- 7) On August 24, 2017, NYSOH issued notices stating that your children were no longer eligible for coverage through NYSOH, and that they were being disenrolled from their CHP plan as of August 31, 2017
- 8) You testified that you do not know why those notices were returned, and you confirmed that your mailing address was
- 9) You testified that you have not had any other address since you updated your mailing address in August 2017.
- 10) You testified that you have not had any problem receiving other notices from NYSOH, and your NYSOH account reflects that no other notices sent to this mailing address have been returned to NYSOH as undeliverable.
- 11) You testified that you received the August 24, 2017 disenrollment notice and immediately contacted NYSOH to find out why your children were losing your coverage.
- 12) You testified that a NYSOH representative informed you that your children were being disenrolled from their coverage because a piece of mail that was sent to you was sent back to NYSOH and marked “undeliverable.”
- 13) You testified that the NYSOH representative asked you to state your mailing address, and, after you stated it, the representative told you that this was the address NYSOH had on file for you.
- 14) You testified, and your NYSOH account confirms, that you updated your application and reenrolled your children in their CHP plan on August 28, 2017.
- 15) You testified that you have a medical bill for one of your children for the month of September 2017.

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 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 (NY 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

(NY PHL § 2511(2)(a)-(e)).

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 sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow CHP 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 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 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 children's eligibility for, and enrollment in, their CHP coverage terminated effective August 31, 2017.

A child will be eligible for CHP through NYSOH if that child meets the financial and non-financial requirements. One of the requirements for CHP eligibility is NY State residency.

On August 7, 2017, you updated your NYSOH account and provided your new mailing address, [REDACTED] August 8, 2017,

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NYSOH sent a notice of eligibility determination and a notice of enrollment confirmation to your new mailing address. Both of these notices were returned to NYSOH by the post office as undeliverable mail. As a result, NYSOH issued notices on August 24, 2017 stating that your children were no longer eligible to remain in CHP, and that they were disenrolled from their CHP plan as of August 31, 2017.

You credibly testified that you updated your mailing address in August 2017, and that your address has not changed since then. Additionally, you testified that you have received all other notices from NYSOH, including the August 24, 2017 notices at issue in this appeal. The record confirms that no other notices sent to this mailing address have been returned to NYSOH as undeliverable. Nevertheless, a NYSOH employee marked your mailing address as invalid on August 23, 2017, resulting in your children's disenrollment from their coverage.

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.

The notice informing you of your children's disenrollment from their CHP coverage was dated on August 24, 2017, and is considered received five days later: August 29, 2017. On August 28, 2017, you updated the information in your NYSOH account, and they were found eligible for CHP and re-enrolled in a plan.

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 children'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 effective until October 1, 2017, too late 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 children for the month of September 2017, and the August 24, 2017 discontinuance and disenrollment notices are RESCINDED.

Additionally, your credible testimony, and the information in your NYSOH account, make it clear that your children never lacked NY State residency, and should never have been disenrolled from their coverage at all. Prior to their disenrollment, your children were enrolled in CHP with a \$9.00 monthly premium, and that premium amount was to remain in place until June 30, 2018. However, because NYSOH incorrectly disenrolled your children from their CHP coverage, when you re-enrolled them, they were not given the \$9.00 premium, but were instead found eligible for CHP with a \$15.00 premium.

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Therefore, your case is RETURNED to NYSOH to:

1. Reinstate your children in their CHP coverage with a \$9.00 premium each for the month of September 2017; AND
2. Reinstate your children's \$9.00 CHP premium as of September 1, 2017, and allow your children to remain in CHP with a \$9.00 monthly premium, each, until June 30, 2018.

## **Decision**

The August 24, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to:

1. Reinstate your children into their CHP coverage with a \$9.00 premium each for the month of September 2017; AND
2. Reinstate your children's \$9.00 per month CHP premium beginning September 1, 2017, and allow your children to remain in CHP with a \$9.00 monthly premium, each, until June 30, 2018.

**Effective Date of this Decision:** November 8, 2017

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

Your children should not have been terminated from their CHP coverage due to mail being returned to NYSOH as undeliverable.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the month of September 2017, with a \$9.00 premium each.

Your case is also being sent back to NYSOH to adjust your children's CHP premium to \$9.00 per month, each, as of September 1, 2017, and through June 30, 2018.

## **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

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## **Summary**

The August 24, 2017 discontinuance and disenrollment notices are **RESCINDED**.

Your case is RETURNED to NYSOH to:

1. Reinstate your children into their CHP coverage with a \$9.00 premium each for the month of September 2017; AND
2. Reinstate your children's \$9.00 per month CHP premium beginning September 1, 2017, and allow your children to remain in CHP with a \$9.00 monthly premium, each, until June 30, 2018.

Your children should not have been terminated from their CHP coverage due to mail being returned to NYSOH as undeliverable.

Your case is being sent back to NYSOH to reinstate your children into their CHP plan for the month of September 2017, with a \$9.00 premium each.

Your case is also being sent back to NYSOH to adjust your children's CHP premium to \$9.00 per month, each, as of September 1, 2017, and through June 30, 2018.

## **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 b&tumi ama wo obi a okyer& 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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