



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

## Notice of Decision

Decision Date: November 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022584

[REDACTED]

Dear [REDACTED],

On November 14, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's May 8, 2017 eligibility determination notice and May 8, 2017 disenrollment notice.

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 21, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022584

[REDACTED]

## Issues

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

Was your appeal of NY State of Health's May 8, 2017 eligibility determination notice and May 8, 2017 disenrollment notice timely?

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

## Procedural History

On February 1, 2017, NY State of Health (NYSOH) received your application for health insurance for your child.

On February 2, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus for a limited time, effective January 1, 2017. The notice requested that you provide documentation confirming your child's citizenship status and Social Security number before May 2, 2017.

Also on February 2, 2017, NYSOH issued a notice confirming your child's enrollment in a Child Health Plus plan, effective January 1, 2017.

On May 8, 2017, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, the Essential Plan, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost.

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because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on May 8, 2017, NYSOH issued a disenrollment notice stating that your child's coverage in her Child Health Plus plan would end effective May 31, 2017. This was because she was no longer eligible to enroll in health insurance through NYSOH.

On August 28, 2017, your child's Social Security number was added to your NYSOH account.

On August 29, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a Child Health Plus plan, effective October 1, 2017.

Also on August 29, 2017, NYSOH issued an enrollment confirmation notice stating that you child was reenrolled in a Child Health Plus plan as of October 1, 2017.

On September 19, 2017, you spoke with NYSOH's Account Review Unit and filed an appeal insofar as your child was disenrolled from her Child Health Plus plan as of May 31, 2017.

On November 14, 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 child's disenrollment from her Child Health Plus plan as of May 31, 2017.
- 2) You testified that your child was born [REDACTED].
- 3) The record indicates that your child was added to your NYSOH account on February 1, 2017. The application that was submitted that day indicates that she is a U.S. Citizen, but she did not have a Social Security number because you were in the process of applying for one.
- 4) You testified that you were aware that you needed to supply your daughter's Social Security number after you submitted her initial application for health insurance. You explained that when you first contacted your child's Child Health Plus plan to make your first payment, you attempted to provide your child's Social Security number. You

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explained that this individual advised you they could not process this information and transferred you to another department, who accepted your child's Social Security number and told you that you were all set.

- 5) You testified that you assume that you elected to receive notices from NYSOH by electronic mail. Your NYSOH account reflects that you did elect to receive all of your notices from NYSOH by electronic mail.
- 6) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your child's eligibility was only conditional and that you needed to provide documentation of her citizenship status or her Social Security number.
- 7) You testified that you did not receive any electronic alerts notifying you of any notice in your NYSOH account stating that your child had been disenrolled from her Child Health Plus plan.
- 8) You testified that you continued to make payments to your child's Child Health Plus plan and that the Child Health Plus plan continued to accept your payments after May 31, 2017.
- 9) You testified that you did not know that your child had been disenrolled from her Child Health Plus plan until she went to a doctor's appointment and were advised that your child had no coverage.
- 10) You testified that you contacted your navigator immediately after learning that your child had been disenrolled from her Child Health Plus plan.
- 11) The record indicates that on August 28, 2017, your child's Social Security number was added to your NYSOH account.
- 12) On August 31, 2017, you contacted NYSOH's Account Review Unit and requested that your child be reinstated into her Child Health Plus plan as of June 1, 2017. As a result, an incident [REDACTED] was created.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions. 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).

cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

### 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)).

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

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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).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## **Legal Analysis**

The first issue is whether your appeal of NYSOH's May 8, 2017 eligibility determination and May 8, 2017 disenrollment notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your child's ineligibility for and disenrollment from her Child Health Plus plan on September 19, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

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For an appeal to have been valid on the issue of your child's ineligibility for and disenrollment from her Child Health Plus plan, an appeal should have been filed by July 7, 2017. The record reflects that you filed your appeal on September 19, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, your NYSOH account reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the May 8, 2017 eligibility determination or the May 8, 2017 disenrollment notice. There is no indication that either of these notices were sent to you via regular mail. There is no evidence in your account documenting that any email alerts were sent to you regarding the eligibility determination or disenrollment notice.

As you did not receive the May 8, 2017 eligibility determination or the May 8, 2017 disenrollment notice, there is no indication that NYSOH ever made you aware of your child's ineligibility for and disenrollment from her Child Health Plus plan or your appeal rights.

You explained that you had continued to pay premiums to your child's Child Health Plus plan after May 31, 2017 and your child's Child Health Plus plan continued to accept those premiums after May 31, 2017.

You testified that you became aware that your child had been disenrolled from her Child Health Plus plan when your child attended a doctor's appointment and were advised by the physician's office that your child had no coverage. You further testified that you immediately contacted your navigator. Therefore, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in Child Health Plus 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 child was added to your NYSOH account on February 1, 2017. The application that was submitted that day indicates that she is a U.S. Citizen, but that she did not have a Social Security number because you were in the process of applying for one.

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In the eligibility determination issued on February 2, 2017 you were advised that your child's eligibility for Child Health Plus was limited, and that you needed to confirm her Social Security number and citizenship status before May 2, 2017.

However, you testified that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which advised you that your eligibility was only conditional and that you needed to submit documentation to confirm your citizenship status. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your child's citizenship and Social Security number in order to confirm your child's eligibility for Child Health Plus.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the May 8, 2017 eligibility determination notice and May 8, 2017 disenrollment notice, stating that your child is no longer eligible for and disenrolled from Child Health Plus because you failed to submit documentation are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in her Child Health Plus plan as of June 1, 2017.

## **Decision**

The May 8, 2017 eligibility determination notice is RESCINDED.

The May 8, 2017 disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan as of June 1, 2017.

**Effective Date of this Decision:** November 21, 2017

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

Your child should not have been terminated from her Child Health Plus plan as of May 31, 2017 for failure to submit proof of her citizenship status and Social Security number.

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 case is being sent back to NYSOH to reinstate your child into her Child Health Plus plan as of June 1, 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):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777

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- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The May 8, 2017 eligibility determination notice is RESCINDED.

The May 8, 2017 disenrollment notice is RESCINDED.

Your child should not have been terminated from her Child Health Plus plan as of May 31, 2017 for failure to submit proof of her citizenship status and Social Security number.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan as of June 1, 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، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

### **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 bεtumi 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.

### **אִיִּדיש (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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