



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

## Notice of Decision

Decision Date: January 19, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022991

[REDACTED]

[REDACTED]

On December 14, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 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: January 19, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022991



## 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 three children's enrollment in a Child Health Plus plan and you and your spouse's Essential Plan coverage ended effective September 30, 2017?

## Procedural History

On September 7, 2017, NYSOH issued an eligibility determination notice stating that your three children were eligible for Child Health Plus with a \$9.00 monthly premium each and that you and your spouse were eligible for an Essential Plan with a \$20.00 monthly premium each, effective October 1, 2017.

Also, on September 7, 2017, NYSOH issued a notice of enrollment confirmation stating that your three children were enrolled in a Child Health Plus plan, effective October 1, 2017. The notice also stated that you and your spouse remained enrolled in an Essential Plan with a \$20.00 monthly premium each, effective September 1, 2017.

On September 6, 2017, you contacted NYSOH and advised of a new address.

On September 15, 2017, NYSOH issued a notice of enrollment confirmation stating that your three children remained enrolled in a Child Health Plus plan, effective September 1, 2017. The notice also stated that you and your spouse remained enrolled in an Essential Plan, effective September 1, 2017.

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On September 28, 2017, NYSOH redetermined your eligibility.

On September 29, 2017, NYSOH issued a notice of discontinuance stating that you, your spouse and your three children were no longer eligible to receive health insurance through NYSOH, effective September 30, 2017, because notices regarding your household's eligibility and coverage sent to you by NYSOH were returned as undeliverable.

Also, on September 29, 2017, NYSOH issued a disenrollment notice stating that coverage in a Child Health Plus plan for your three children and coverage in you and your spouse's Essential Plan would end on September 30, 2017.

On October 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination disenrolling your children from their Child Health Plus plans and ending you and your spouse's Essential Plan coverage, effective September 30, 2017.

Also, on October 2, 2017, NYSOH received your updated application for financial assistance with health insurance.

On October 3, 2017, NYSOH issued an eligibility determination notice stating that your three children were determined eligible for Child Health Plus and you and your spouse were eligible for the Essential Plan, effective November 1, 2017.

Also, on October 3, 2017, NYSOH issued an enrollment confirmation notice stating that your three children were enrolled in a Child Health Plus plan and you and your spouse were enrolled in an Essential Plan, effective November 1, 2017.

On December 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, and your account confirms, that your three children were enrolled in Child Health Plus and you and your spouse were enrolled in an Essential Plan, all effective September 1, 2017.
- 2) NYSOH records reflect that your three children were disenrolled from their Child Health Plus plans and you and your spouse were disenrolled from your Essential Plan, effective September 30, 2017.
- 3) You testified that you currently live at [REDACTED], and have lived at this address since September 1, 2017.

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- 4) You testified, and NYSOH records confirm, that you contacted NYSOH on September 6, 2017 to advise that your new address was [REDACTED].
- 5) You testified that prior to September 1, 2017 you lived at [REDACTED].
- 6) You testified that on August 30, 2017, you contacted the U.S. Post Office and had your mail forwarded to [REDACTED].
- 7) On August 29, 2017, NYSOH issued an eligibility determination notice and a notice of enrollment confirmation to your prior address [REDACTED]. The notices were returned to NYSOH as undeliverable and the envelopes stated return to sender.
- 8) On September 29, 2017, NYSOH issued a notice of discontinuance stating that you, your spouse and your three children were no longer eligible to receive health insurance through NYSOH, effective September 30, 2017, because notices regarding your household's eligibility and coverage sent to you by NYSOH were returned as undeliverable.
- 9) You testified that you received mail, with your updated address, from NYSOH, after the above notices were returned as undeliverable.
- 10) You testified that you are seeking a reinstatement of your children's Child Health Plus plans and you and your spouse's Essential Plan for the month of October 2017 because you had medical expenses in October 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

The "period of eligibility" for Child Health Plus 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 [Child Health Plus], which can be determined based on the date of application or

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through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

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 to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 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).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

## **Legal Analysis**

The issue is whether NYSOH properly determined that your two children’s enrollment in a Child Health Plus plan and you and your spouse’s enrollment in an Essential Plan would end effective September 30, 2017.

You testified, and NYSOH records reflect that your three children were enrolled in Child Health Plus and you and your spouse were enrolled in an Essential Plan, effective September 1, 2017.

For an applicant to remain eligible for enrollment in a Child Health Plus plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a New York State Resident.

On August 29, 2017, NYSOH issued an eligibility determination notice and a notice of enrollment confirmation to the mailing address listed in your NYSOH account [REDACTED]. The notices were returned to NYSOH as undeliverable and the envelopes stated return to sender.

As a result, your three children were subsequently disenrolled from their Child Health Plus plans and you and your spouse were disenrolled from your Essential Plan, effective September 30, 2017, because NYOSH received mail addressed to you that was undeliverable, and the system assumed that your household no longer met the state residency requirement for enrollment through NYSOH.

You testified, and NYSOH records reflect, that prior to September 1, 2017 you lived at [REDACTED]. You testified, and NYSOH records reflect, that you contacted NYSOH on September 6, 2017 to advise that your new address was [REDACTED]. You testified that you currently live at [REDACTED], and have lived at this address since September 1, 2017. You testified that on August 30, 2017, you contacted the US Postal Service and had your mail forwarded to [REDACTED].

You testified that despite having directed the US Postal Service to forward your mail to your new address (on August 30, 2017), the notices were returned to NYSOH by the US Post Office as undeliverable. However, when NYSOH issued the August 29, 2017 eligibility and enrollment notices, they were properly issued to the mailing address contained in your NYSOH account, and ordinarily, it would be proper to discontinue coverage.

However, you had already updated your address in NYSOH well before any discontinuance notices were issued on September 29, 2017.

Therefore, the September 29, 2017 discontinuance notice and disenrollment notice were improper and must be RESCINDED, and the matter be returned to NYSOH to reinstate your coverage.

## **Decision**

The September 29, 2017 discontinuance notice and disenrollment notice are RESCINDED.

**Effective Date of this Decision:** January 19, 2018

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

NYSOH improperly discontinued coverage for your family, and the matter is returned to NYSOH to reinstate coverage in Child Health Plus for your three children coverage for you and your spouse in your Essential Plan, effective September 30, 2017.

This decision does not change you, your spouse's or your children's eligibility.

## **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

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).



to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

NYSOH improperly discontinued coverage for your family, and the matter is returned to NYSOH to reinstate coverage in Child Health Plus for your three children coverage for you and your spouse in your Essential Plan, effective September 30, 2017.

This decision does not change you, your spouse's or your children's eligibility.

### **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 September 29, 2017 discontinuance notice and disenrollment notice are RESCINDED.

### **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 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.

## **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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