



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

### Notice of Decision

Decision Date: December 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023826

[REDACTED]

Dear [REDACTED],

On December 21, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 24, 2017 eligibility determination 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: December 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023826

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that your newborn's eligibility for and enrollment in Child Health Plus (CHP) terminated effective September 30, 2017?

## Procedural History

On June 20, 2017, you added your newborn (child) to your NYSOH account and submitted an application on his behalf.

On June 21, 2017, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible for CHP with a \$15.00 per month premium, effective June 1, 2017. The notice directed you to provide documentation confirming his citizenship status and social security number before September 18, 2017.

Also on June 21, 2017, a plan enrollment notice was issued confirming your child's enrollment in a CHP plan effective June 1, 2017.

No updates were made to your NYSOH account by the deadline.

On September 24, 2017, NYSOH issued an eligibility determination notice stating that your child did not qualify for health coverage through NYSOH because you had not confirmed his citizenship status and social security number within the required timeframe. This eligibility was effective October 1, 2017.

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Also on September 24, 2017, NYSOH issued a disenrollment notice stating that your child's coverage in his CHP plan would end effective September 30, 2017.

On October 30, 2017, you updated your child's NYSOH account and added your child's social security number to that account. That same day a preliminary eligibility determination was prepared finding your child eligible for CHP, effective December 1, 2017. He was enrolled in a CHP plan that same day with a December 1, 2017 start date.

Also on October 30, 2017, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his CHP plan for the months of October 2017 and November 2017.

On October 31, 2017, NYSOH issued eligibility determination and plan enrollment notices stating respectively that your child was eligible to enroll in CHP with a \$15.00 per month premium and was enrolled in a CHP plan, effective December 1, 2017.

On December 21, 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) According to your NYSOH account and your testimony, you receive your notices from NYSOH by electronic mail.
- 2) You testified that you are only appealing your child's disenrollment from his CHP plan for the months of October 2017 and November 2017.
- 3) According to your NYSOH account, your child was added to your NYSOH account on June 20, 2017. The application that was submitted that day indicates that he was a U.S Citizen, and you were in the process of applying for a social security number for him.
- 4) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to supply your child's proof of citizenship and social security number by a date certain.

- 5) You further testified that you were never advised by the NYSOH that you must supply your child's social security number.
- 6) You testified that you supplied your child's social security number in July 2017, because you were having difficulties activating his coverage.
- 7) You testified that, although you did receive your child's June 21, 2017 eligibility determination notice, you did not receive any electronic alerts or any notice in your NYSOH account telling you that your child had been disenrolled from his CHP plan.
- 8) You testified that you did not know your child had been disenrolled from his CHP plan until your doctor's office called the day before the appointment and advised you that a bill was not being covered by your child's CHP plan.
- 9) According to your NYSOH account, you supplied your child's social security number to NYSOH on October 30, 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 (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 CHP 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 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).

### 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)).

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).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in CHP terminated effective September 30, 2017.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH and must confirm, among other things, their citizenship status and social security number.

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.

In the eligibility determination issued on June 21, 2017 you were advised that your child's eligibility for CHP was only conditional, and that you needed to confirm his social security number and citizenship status before September 18, 2017.

However, the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although, you testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to supply your child's proof of citizenship and social security number, you also testified that you received the June 21, 2017 eligibility determination notice, which is one in the same.

Therefore, it is concluded that NYSOH did properly notify of that your child's eligibility was conditional and that you needed to confirm his citizenship status and social security number before September 18, 2017, to confirm his eligibility.

You further testified that you supplied your child's social security number in July 2017, because you were having difficulties activating your child's coverage, although you were unable to provide any evidence of this telephone call. Since the more credible evidence of the record shows that you supplied your child's social security number to NYSOH on October 30, 2017, your testimony in this regard is not credible.

Because you did not provide your child's proof of citizenship status and social security number by the deadline of September 18, 2017, your child was terminated from his CHP plan, effective September 30, 2017.

Notwithstanding the foregoing, you testified that you did not receive an electronic alert regarding the September 24, 2017 eligibility redetermination and disenrollment notices, which advised you that your child was no longer eligible for health insurance and that his coverage was ending as of September 30, 2017. When NYSOH denies, terminates, or suspends a child's CHP coverage, they are

required to provide sufficient notice so that a child's parent can act to prevent a gap in coverage for the child. Notice is considered to be received five days after the notice date.

In this case, the notice formally disenrolling your child from his CHP plan was dated September 24, 2017. Therefore, the notice terminating your child's enrollment would be considered received five days later; that is, as of September 29, 2017.

When changes are made to an individual's application after the fifteenth of any month, NYSOH must make the redetermination that results from a change effective the first day of the second following month. Since you would have received NYSOH's notice terminating your child's Child Health Plus eligibility after the fifteenth of the month, any changes you would have made to your account to prevent a gap in coverage could not have been effective until November 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 October 2017 and the September 24, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his CHP plan effective October 1, 2017, and to notify you accordingly.

## **Decision**

The September 24, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his CHP plan effective October 1, 2017, and to notify you accordingly.

The October 31, 2017 plan enrollment notice is rendered moot by this Decision.

**Effective Date of this Decision:** December 28, 2017

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

Your case is being sent back to NYSOH to reinstate your child into his CHP plan as of October 1, 2017. NYSOH will notify you once this has been done.



You will be responsible for your child's health insurance premiums directly to the CHP Plan for his coverage to resume for the months of October 2017 and November 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:

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 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The September 24, 2017 eligibility determination and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's coverage in his CHP plan effective October 1, 2017, and to notify you accordingly.

The October 31, 2017 plan enrollment notice is rendered moot by this Decision.

Your case is being sent back to NYSOH to reinstate your child into his CHP plan as of October 1, 2017. NYSOH will notify you once this has been done.

You will be responsible for your child's health insurance premiums directly to the CHP Plan for his coverage to resume for the months of October 2017 and November 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)**

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).

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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