



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

Notice of Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025305

[REDACTED]

Dear [REDACTED],

On February 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 19, 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025305

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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 Child Health Plus terminated effective November 30, 2017?

Procedural History

On August 14, 2017, you updated your NYSOH account and applied for health insurance for your oldest child and your newborn child.

On August 15, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible for Child Health Plus with a \$45.00 monthly premium effective September 1, 2017. The notice also stated that your newborn child was eligible for Child Health Plus with a \$45.00 monthly premium, for a limited period of time, effective August 1, 2017. The notice requested that you provide documentation confirming your newborn child's citizenship status and Social Security number before November 12, 2017.

Also on August 15, 2017, NYSOH issued a notice confirming your children's enrollment in a Child Health Plus plan with a \$45.00 monthly premium each, with the oldest child's enrollment effective September 1, 2017 and your newborn child's enrollment effective August 1, 2017.

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On November 18, 2017, NYSOH systematically updated your account. At that time, an application for financial assistance with health insurance for your two children was submitted based on the information available to NYSOH.

On November 19, 2017, NYSOH issued an eligibility determination notice based on the November 18, 2017 system updated application, stating that your newborn child was not eligible for Medicaid, Child Health Plus, 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, because you had not confirmed her citizenship status and Social Security number within the required timeframe.

Also on November 19, 2017, NYSOH issued a disenrollment notice stating that both your children's coverage in their Child Health Plus plan would end effective November 30, 2017 because they were no longer eligible to enroll in health insurance through NYSOH.

Also on November 19, 2017, NYSOH issued an eligibility determination notice based on the November 18, 2017 system updated application, stating that your older child was eligible for Child Health Plus with a \$45.00 monthly premium, effective January 1, 2018.

On December 4, 2017 your child's Social Security number and proof of citizenship were added to your NYSOH account. That day, a preliminary eligibility determination was prepared stating that your children were eligible to enroll in Child Health Plus and at that time, you selected a plan for their enrollment.

Also on December 4, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan for the month of December 2017.

On December 5, 2017, NYSOH issued an eligibility determination notice based on the December 4, 2017 application, stating that your children were eligible to enroll in Child Health Plus with a \$45.00 per month premium each, effective January 1, 2018.

Also on December 5, 2017, NYSOH issued an enrollment confirmation notice based on the plan selection you made on December 4, 2017, stating that your children were enrolled in a Child Health Plus plan with a \$45.00 monthly premium each, with a plan enrollment start date of January 1, 2018.

On February 7, 2018, 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 only appealing your children's disenrollment from their Child Health Plus plan for the month of December 2017.
- 2) The record indicates that your newborn child was added to your NYSOH account on August 14, 2017. The application that was submitted that day indicates that she was a US citizen but she did not have a Social Security number because you were in the process of applying for one.
- 3) The August 15, 2017, eligibility determination stated that your newborn child's eligibility was conditional and that you needed to submit proof of her citizenship status and Social Security number by November 12, 2017.
- 4) According to your NYSOH account, no proof of your newborn child's citizenship or Social Security number was submitted by November 12, 2017.
- 5) You testified that you did not receive the August 15, 2017 notice that stated you were required to submit proof of your child's citizenship and Social Security number by November 12, 2017.
- 6) You testified that you did not receive the November 19, 2017 notice that stated both your children were disenrolled from their Child Health Plus plan effective November 30, 2017.
- 7) You testified that you did not know your children had been disenrolled from their Child Health Plus plan until you took them to the doctor on [REDACTED]. The doctor's office informed you the children's plan had been cancelled.
- 8) According to your NYSOH account and your testimony, on December 4, 2017, you submitted a copy of your newborn child's birth certificate and Social Security number.
- 9) According to your NYSOH account and your testimony, you selected a Child Health Plus plan for your children on December 4, 2017 with a plan start date of January 1, 2018.
- 10) The record indicates that on December 4, 2017, your newborn child's Social Security number was added to your NYSOH account.

- 11) You testified that you want your children's Child Health Plus coverage reinstated for the month of December 2017 because both children incurred medical bills that are unpaid in that month.

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 (NY 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

(NY PHL § 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 the applicant with 90 days to provide satisfactory documentary evidence. Notice is considered received five days after the date on the notice, unless the applicant demonstrates that he or she did not receive the notice within the five-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

The issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in Child Health Plus terminated effective December 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 youngest child was added to your NYSOH account on August 14, 2017. The application that was submitted that day indicates that she was a U.S Citizen but she did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on August 15, 2017, you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her Social Security number and citizenship status before November 12, 2017.

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).

The record indicates that NYSOH did not have her Social Security number before the November 12, 2017 deadline.

On November 19, 2017, NYSOH issued a disenrollment notice stating that both your children's coverage in their Child Health Plus plan would end effective November 30, 2017 because they were no longer eligible to enroll in health insurance through NYSOH. According to the November 19, 2017 eligibility determination notice issued in regard to your youngest child, this was because NYSOH did not receive documentation of her citizenship status and Social Security number. It is noted that there was no eligibility determination notice issued as to the reason why your oldest child was no longer eligible for Child Health Plus, effective December 1, 2017.

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 formally disenrolling your children from their Child Health Plus plan was dated November 19, 2017. Therefore, the notice terminating your children's enrollment would be considered received as of November 24, 2017.

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 Child Health Plus eligibility after the 15th of the month, any changes you would have made to your account to prevent a gap in coverage would not have been effective until January 1, 2018.

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 children for the month of December 2017. As such the November 19, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Decision

The November 19, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of December 2017.

Effective Date of this Decision: March 13, 2018

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).

How this Decision Affects Your Eligibility

Your children should not have been terminated from their Child Health Plus plan in December 2017 for failure to submit proof of your youngest child's citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of December 2017.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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

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 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

Summary

The November 19, 2017 eligibility determination and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of December 2017.

Your children should not have been terminated from their Child Health Plus plan in December 2017 for failure to submit proof of your youngest child's citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of December 2017.

Legal Authority

We are issuing this determination in accordance with 45 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).

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।

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).

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.