



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

## Notice of Decision

Decision Date: December 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025425

[REDACTED]

Dear [REDACTED],

On December 11, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 4, 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).

This page intentionally left blank.



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

## Decision

Decision Date: December 11, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025425



## Issue

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

Did NY State of Health properly determine that your two youngest children's eligibility for and enrollment in Child Health Plus terminated effective November 30, 2017?

## Procedural History

On July 31, 2017, your newborn children were added to your NY State of Health (NYSOH) account and an application was submitted on their behalf.

On August 1, 2017, NYSOH issued a notice of eligibility determination stating that your two youngest children were eligible to enroll in Child Health Plus for a limited time with a \$15.00 per month premium effective July 1, 2017. The notice requested that you provide documentation confirming their citizenship status and Social Security number before October 29, 2017.

Also on August 1, 2017, NYSOH issued a notice confirming your two youngest children's enrollment in a Child Health Plus plan, effective July 1, 2017.

On November 4, 2017, NYSOH issued a discontinuance notice stating that effective December 1, 2017, your two youngest children were no longer eligible for health insurance through NYSOH because you did not provide proof of their 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).

Also on November 4, 2017, NYSOH issued a disenrollment notice stating that your two youngest children's coverage in their Child Health Plus plan would end effective November 30, 2017 because they are no longer eligible to enroll in health insurance through NYSOH.

On December 6, 2017, your NYSOH account was updated and your two youngest children's Social Security numbers were added.

Also on December 6, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan in the month of December 2017.

On December 7, 2017, you requested an expedited hearing on the basis of your two youngest children's medical issues. Your request was granted.

On December 8, 2017, NYSOH issued an eligibility determination notice stating that your two youngest children were eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective January 1, 2018.

Also on December 8, 2017, NYSOH issued an enrollment notice stating that action was required and that you needed to pick a health plan for your two youngest children.

On December 11, 2017, you had an expedited telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you waived your right to formal notice on the record. NYSOH's Evidence Packet was not viewable in your NYSOH account prior to or during the hearing such that its contents could not be and were not considered in rendering this Decision. 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 two youngest children's disenrollment from their Child Health Plus plan in December 2017.
- 2) The record indicates that your two youngest children were added to your NYSOH account on July 31, 2017. The application that was submitted that day indicates that they were US Citizens but they did not have a Social Security number because you were in the process of applying for one.

- 3) You testified that you did not know that you needed to submit proof of your two youngest children's birth certificates or Social Security number cards.
- 4) You testified that you did not know that your children had been disenrolled from their plans until their pharmacy called and stated that their medication could not be refilled.
- 5) You testified, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.
- 6) You testified that you are not sure if you received any electronic alerts regarding any notice in your NYSOH account telling you that your children's eligibility was only limited or that your children had been disenrolled from their Child Health Plus plans.
- 7) You testified that you have received emails from NYSOH in the past informing you of new notices in your account.
- 8) There is no evidence in the file that NYSOH sent you an electronic alert notifying you of new notices available in your account on August 1, 2017 or November 4, 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 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 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

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).

individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your two youngest children's eligibility for and enrollment in Child Health Plus terminated effective November 30, 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 two youngest children were added to your NYSOH account on July 31, 2017. The application that was submitted that day indicates that they were U.S. Citizens but they did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on August 1, 2017, you were advised that your children's eligibility for Child Health Plus was only limited, and that you needed to confirm their Social Security number and citizenship status before October 29, 2017.

The record indicates that NYSOH did not have your two youngest children's Social Security numbers before the October 29, 2017 deadline.

On November 4, 2017, NYSOH issued a disenrollment notice stating that your youngest child's coverage in her Child Health Plus plan would end effective November 30, 2017 because she was no longer eligible to enroll in health insurance through NYSOH. According to the discontinuance notice issued on that day, this was because NYSOH did not receive documentation of their citizenship status and Social Security number.

You testified that you did not know that you needed to submit proof of your two youngest children's birth certificates or Social Security number cards.

You testified that you did not know that your children had been disenrolled from their plans until their pharmacy called and stated that their medication could not be refilled.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. There is no evidence in the file that NYSOH sent you an electronic alert notifying you of new notices available in your account on August 1, 2017 or November 4, 2017. NYSOH is required to send applicants proper written notice in order for applicants to take proper action.

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 and the November 4, 2017 discontinuance and disenrollment notices are RESCINDED.

## **Decision**

The November 4, 2017 discontinuance and disenrollment notices are RESCINDED.

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

NYSOH is also to assist you in enrolling into a plan for January 1, 2018 coverage as per the December 8, 2017 enrollment confirmation notice advising you that a plan needed to be selected for your two youngest children.

**Effective Date of this Decision:** December 11, 2017

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

Your two youngest children should not have been terminated from their Child Health Plus plan in December 2017 for failure to submit proof of their 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 months of December 2017.

NYSOH is also to assist you in reenrolling your children for January 1, 2018 coverage.

## **If You Disagree with this Decision (Appeal Rights)**

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).



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
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211

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: 1-855-900-5557

## **Summary**

The November 4, 2017 discontinuance and disenrollment notices are **RESCINDED**.

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

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

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

NYSOH is also to assist you in reenrolling your children for January 1, 2018 coverage.

## **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 مجانًا.

### **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.

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).

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).