



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

## Notice of Decision

Decision Date: March 8, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025564

[REDACTED]

Dear [REDACTED],

On February 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 27, 2017 discontinuance and disenrollment notices, and the December 9, 2017 eligibility determination and enrollment confirmation 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 NY State of Health 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: March 8, 2018

NY State of Health Account ID: [REDACTED]  
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## 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 (NYSOH) September 27, 2017 discontinuance and disenrollment notices timely?

Did NYSOH properly determine that your child's eligibility for, and enrollment in, a qualified health plan (QHP) began on January 1, 2018?

## Procedural History

On June 23, 2017, you updated your NYSOH account and added your newborn child to your application.

On June 24, 2017, NYSOH issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in a full cost QHP, beginning August 1, 2017. The notice further stated that you needed to provide proof of your child's citizenship status and Social Security number by September 21, 2017, and that, if you missed the due date for this information, your child could lose his insurance.

Also on June 24, 2017, NYSOH issued a notice confirming your child's enrollment in a QHP, along with you and your spouse. Your child's enrollment began on June 1, 2017.

On September 26, 2017, NYSOH redetermined your child's eligibility.

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On September 27, 2017 NYSOH issued a discontinuance notice stating that your child was not eligible to enroll in coverage through NYSOH because you had not provided his citizenship status and Social Security number to confirm his eligibility. His eligibility for coverage ended effective October 1, 2017.

Also on September 27, 2017, NYSOH issued a disenrollment notice, stating that your child was disenrolled from your QHP coverage, effective September 30, 2017, because he was no longer eligible to remain enrolled in health insurance through NYSOH.

On December 8, 2017, you updated your household's application for health insurance through NYSOH for 2018. That same day, NYSOH prepared a preliminary eligibility determination stating that you, your spouse, and your child were eligible to enroll in a QHP at full cost, effective January 1, 2018.

Also on December 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination, insofar as your child's eligibility and enrollment did not begin on October 1, 2017.

On December 9, 2017, NYSOH issued a notice of eligibility determination stating that you, your spouse, and your child were eligible to enroll in a QHP at full cost, effective January 1, 2018.

Also on December 9, 2017, NYSOH issued a notice of enrollment confirmation, confirming that you, your spouse, and your child were enrolled in a full cost QHP, beginning January 1, 2018.

On February 23, 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 support the following findings of fact:

- 1) Your NYSOH account reflects, and you confirmed in your testimony, that you updated your NYSOH account and added your newborn child to your application for health insurance on June 23, 2017.
- 2) You testified that you called NYSOH to update your application on this date, and that you were informed that you would need to update your account with your child's Social Security number when it was issued.
- 3) You testified, and the record reflects, that you receive electronic mail alerts regarding notices issued in your NYSOH account.

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- 4) You testified that you may have received an email alert regarding the June 24, 2017 notice informing you that you needed to provide your child's Social Security number by September 21, 2017.
- 5) You testified that you regularly check the email account that is on file with NYSOH for email.
- 6) You testified that, many times, you view emails from NYSOH on your phone, and that it is a big process to go to the website and click through all the notices to find the one that the email is referencing.
- 7) You testified that NYSOH sent one email about the notice stating that your child's coverage was being terminated because you did not supply his Social Security number, and that it looked the same as all the other emails NYSOH sends.
- 8) You testified that you thought NYSOH would send something in the mail, or send an email that indicated that it was urgent, if they were going to cancel your child's coverage.
- 9) You testified that you are enrolled in auto-pay, and did not notice that your monthly premium decreased in October 2017, when your child was removed from your health plan.
- 10) You testified that you did not know that your child was without coverage until December 2017, when you were notified that a bill for medical treatment for your child was rejected by your insurance.
- 11) You testified that you contacted NYSOH right away and that you reenrolled your child in coverage, but that it did not start until January 2018.
- 12) Your NYSOH account reflects that you updated your application on December 8, 2017 and reenrolled your child in a QHP on that day.
- 13) You testified that you asked your health plan if you could just pay the difference in premiums for the months of October, November, and December and have your child reenrolled for those months, but that your health plan told you that they could not do that because you are enrolled through NYSOH.
- 14) You testified that you are seeking reinstatement for your child for October, November and December 2017 in your QHP because you have medical bills that are still outstanding from those months.

- 15) You testified that you were told by a NYSOH agent that the emails all look the same for security reasons, but you think this is annoying and believe that there should be a way to sort the important emails from the routine ones.

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; (3) a failure by NYSOH to provide timely notice of an eligibility determination; and (4) 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)).

### Redetermination During a Benefit Year

When a redetermination is issued because of a change in an applicant's information, NYSOH must generally make that redetermination effective on the first day of the month following the date NYSOH is notified of the change (45 CFR § 155.330 (f)(1)(ii)). However, NYSOH may determine that its policy will be that any change made after the 15<sup>th</sup> of any month will not be effective until the first of the second following month (45 CFR § 155.330(f)(2)).

### Enrollment in a Qualified Health Plan

The effective date of coverage by QHP is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i)). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

## Legal Analysis

The first issue under review is whether your appeal of NYSOH's September 27, 2017 discontinuance and disenrollment notices was timely.

Your NYSOH account was updated and your newborn child was added to your application on June 23, 2017. NYSOH found him eligible to enroll in a full cost QHP, and requested proof of his citizenship and Social Security number by September 21, 2017 to confirm his eligibility for coverage through NYSOH. You confirmed in your testimony that you were told by NYSOH that you needed to supply this information when you received your child's Social Security number.

When this information was not received by the September 21, 2017 deadline, NYSOH issued a notice informing you that your child was no longer eligible to enroll in coverage through NYSOH, and that his coverage in your QHP would end as of September 30, 2017.

An individual has the right to request an appeal of a NYSOH eligibility determination with which they do not agree, and must file that appeal within 60 days of the eligibility determination.

For an appeal of the September 27, 2017 discontinuance and disenrollment notices to have been timely, it would have to have been filed by November 26, 2017. According to the credible evidence in the record, you did not contact NYSOH until December 8, 2017 to file a formal appeal, which is 72 days from the September 27, 2017 notices.

Your NYSOH account reflects that you receive email alerts when notices are issued in your NYSOH account. You confirmed in your testimony that NYSOH sent you an email alert when your child's coverage was ending, but that you did not realize that the alert was regarding a notice terminating your child's coverage because it looked the same as all the other emails you receive from NYSOH. Nevertheless, as you were sent an email regarding the September 27, 2017 discontinuance and disenrollment notices, it is concluded that you were therefore on notice of your child's disenrollment from his QHP coverage.

Therefore, there has been no timely appeal of the September 27, 2017 discontinuance and disenrollment notices, and your appeal on the issue of your child's disenrollment from his QHP, as stated in those notices, is **DISMISSED**.

The second issue under review is whether NYSOH properly determined that your child's eligibility for, and re-enrollment in, a QHP, was effective no earlier than January 1, 2018.

The record shows that on December 8, 2017, you updated the information in your NYSOH account and submitted a request to enroll in a QHP on behalf of

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yourself, your spouse, and your child. On December 9, 2017, NYSOH issued an enrollment confirmation notice stating that you, your spouse, and your child's enrollment in your QHP was effective January 1, 2018.

When an individual changes information in their application on or before the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the following month. Additionally, the date on which a QHP can take effect depends on the day a person selects the plan for enrollment. A plan that is selected from the first day to and including fifteenth day of a month goes into effect on the first day of the following month.

Therefore, NYSOH's December 9, 2017 eligibility determination and enrollment confirmation notices are **AFFIRMED** because they properly began your child's enrollment in your QHP on January 1, 2018.

## **Decision**

Your appeal of the September 27, 2017 discontinuance and disenrollment notices is untimely and is therefore **DISMISSED**.

The December 9, 2017 notice of eligibility determination is **AFFIRMED**.

The December 9, 2017 enrollment confirmation notice is **AFFIRMED**.

**Effective Date of this Decision:** March 8, 2018

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

This decision does not change your child's eligibility.

Your child's eligibility for, and enrollment in, a QHP properly began on January 1, 2018.

## **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

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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
- 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

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- By fax: 1-855-900-5557

## **Summary**

Your appeal of the September 27, 2017 discontinuance and disenrollment notices is untimely and is therefore **DISMISSED**.

The December 9, 2017 notice of eligibility determination is **AFFIRMED**.

The December 9, 2017 enrollment confirmation notice is **AFFIRMED**.

This decision does not change your child's eligibility.

Your child's eligibility for, and enrollment in, a QHP properly began on January 1, 2018.

## **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&etumi 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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