



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

Notice of Decision

Decision Date: February 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025601

[REDACTED]

[REDACTED]

On February 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 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: February 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025601



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 newborn's eligibility for and enrollment in Child Health Plus terminated effective November 30, 2017?

Procedural History

On August 11, 2017, you updated your household's application for financial assistance. Specifically, you added your newborn to your application.

On August 12, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your newborn was eligible for a full-pay Child Health Plus plan or a child-only qualified health plan for a limited time, effective August 1, 2017. This notice directed you to submit proof of your child's citizenship status and social security number by November 9, 2017.

On August 14, 2017, NYSOH issued a notice of enrollment confirming that your newborn was enrolled in a Child Health Plus plan, effective August 1, 2017.

On November 16, 2017, NYSOH issued a discontinuance notice stating that your newborn did not qualify for Child Health Plus or any other health coverage through NYSOH. This was because you had not submitted the requested documentation within the required timeframe.

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Also on November 16, 2017, NYSOH issued a notice of disenrollment stating that your child's coverage with his Child Health Plus plan was ending effective November 30, 2017.

On December 8, 2017, you called NYSOH and updated your account with your newborn's citizenship status and social security number.

On December 9, 2017, NYSOH issued a notice of eligibility determination stating that your newborn was eligible for a full-pay Child Health Plus plan or a child-only qualified health plan, effective January 1, 2018.

Also on December 9, 2017, NYSOH issued an enrollment notice confirming that your newborn was enrolled in a Child Health Plus plan, effective January 1, 2018.

On December 11, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your newborn's Child Health Plus plan.

On February 15, 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) Your August 11, 2017 application indicated that your newborn was a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.
- 2) You testified and your NYSOH account confirms, that you receive all of your notices from NYSOH by electronic mail.
- 3) You testified that you do not remember receiving an electronic alert on August 12, 2017 notifying you of a notice in your NYSOH account stating that you needed to provide the citizenship status and the social security number for your newborn.
- 4) You testified that you did not know that additional information was required or that your newborn was without health coverage until you tried to schedule a doctor's appointment in mid-December 2017.
- 5) You testified that once you learned that your newborn's health coverage was cancelled, you contacted the health plan and then contacted NYSOH, which was the first time you learned that you needed to provide additional information.

- 6) You testified that on December 8, 2017, you submitted the necessary information to the NYSOH representative over the phone and your account was updated at that time.
- 7) Also on December 8, 2017, you testified and the record reflects that you selected a plan for your newborn on that day.
- 8) You testified that your newborn was without coverage for the month of December 2017 and that you incurred medical bills for that month.
- 9) You testified that you are seeking a December 1, 2017 start date for your newborn to avoid a gap in coverage.
- 10) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of “NYSOH Analysis of Electronic Notice Requirements” is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that “[t]he electronic notification rules do not require that Exchanges track and monitor consumers actual receipt of electronic notices...”.
- 11) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the August 12, 2017 eligibility determination notice or the November 16, 2017 discontinuance notice or disenrollment notice.

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

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(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 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 either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting

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the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 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 is whether NYSOH properly determined that your newborn'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 newborn was added to your NYSOH account on August 11, 2017. The application submitted that day indicates that he is a U.S Citizen but he did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on August 12, 2017 you were advised that your newborn's eligibility for Child Health Plus was only conditional, and that you needed to confirm his Social Security number and citizenship status before November 9, 2017.

Because the information requested was not received within the required timeframe, NYSOH issued a discontinuance and a disenrollment notice dated November 16, 2017 that disenrolled your newborn from his Child Health Plus plan effective November 30, 2017.

However, the record reflects that you elected to receive notices and information from the NYSOH by electronic alerts. You credibly testified that you did not remember receiving an electronic alert on August 12, 2017 notifying you of a notice in your NYSOH account stating that you needed to provide citizenship status and social security number for newborn. There is no evidence in your account documenting that any email alert was sent to you regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

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Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the record that NYSOH sent you an electronic alert notifying you of a new notice available in your account on August 12, 2017.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you credibly testified that you do not remember receiving one, there is insufficient evidence in the record that NYSOH provided you by electronic means with the proper notice that you needed to submit documentation of your newborn's citizenship status and social security number.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the November 16, 2017 discontinuance and disenrollment notices stating that your newborn's enrollment in a Child Health Plus plan will end effective November 30, 2017 are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child into his Child Health Plus plan effective December 1, 2017. You will be responsible for remitting the premium for December 2017 coverage to the insurance carrier.

Decision

The November 16, 2017 notice of disenrollment is **RESCINDED**.

The November 16, 2017 discontinuance notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to enroll your child in his Child Health Plus plan effective December 1, 2017. You will be responsible for remitting the premium for December 2017 coverage to the insurance carrier.

Effective Date of this Decision: February 23, 2018

How this Decision Affects Your Eligibility

Your child's eligibility for enrollment in his Child Health Plus plan is effective as of December 1, 2017.

Your case is being sent back to NYSOH to update his enrollment accordingly.

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):

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- By mail at:
NY State of Health Appeals
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- By fax: 1-855-900-5557

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Summary

The November 16, 2017 notice of disenrollment is RESCINDED.

The November 16, 2017 discontinuance notice is RESCINDED.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan effective December 1, 2017. You will be responsible for remitting the premium for December 2017 coverage to the insurance carrier.

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

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 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 1-855-355-5777번으로 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)

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. y&b&tumi ama wo obi a okyer& 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 איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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