



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

## Notice of Decision

Decision Date: May 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025973



Dear [REDACTED]

On April 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 10, 2017 discontinuance notice, November 10, 2017 disenrollment notice, and the December 16, 2017 eligibility determination and enrollment 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: May 2, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025973



## Issues

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

Did NY State of Health properly determine that your newborn was disenrolled from his Child Health Plus plan with a \$45.00 monthly premium, effective December 1, 2017?

Did NY State of Health properly determine that your newborn was eligible for Child Health Plus with a \$60.00 monthly premium, effective January 1, 2018?

## Procedural History

On August 5, 2017, you updated your household's application for financial assistance. Specifically, you added your newborn to your application.

On August 6, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating, in relevant part, that your newborn was eligible for Child Health Plus for a limited time, with a \$30.00 monthly premium, effective August 1, 2017. This notice directed you to submit proof of your household income by October 4, 2017 and proof of your newborn's citizenship status and social security number by November 3, 2017 in order to confirm his eligibility for financial assistance.

Also on August 6, 2017, NYSOH issued a notice of enrollment stating that your newborn was enrolled in a Child Health Plus plan, effective August 1, 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).

On October 10, 2017, NYSOH issued a notice of eligibility determination stating, in relevant part, that your newborn was eligible for Child Health Plus, for a limited time, with a \$45.00 monthly premium, effective November 1, 2017. This notice directed you to submit proof of your newborn's citizenship status and social security number by November 3, 2017 in order to confirm his eligibility for financial assistance.

On October 24, 2017, NYSOH issued a notice to renew your household's health coverage. This notice stated that NYSOH could not make a decision on whether or not your newborn qualified for financial help paying for health insurance coverage. This notice directed you to update your NYSOH account by December 15, 2017.

No proof of citizenship or social security number was received by November 3, 2017.

On November 9, 2017, NYSOH re-determined your newborn's eligibility for financial assistance with health insurance.

On November 10, 2017, NYSOH issued a discontinuance notice stating that your newborn was no longer eligible for health insurance through NYSOH, effective December 1, 2017, because you failed to provide proof of his citizenship status and social security number.

Also on November 10, 2017, NYSOH issued a disenrollment notice stating that your newborn's coverage with his Child Health Plus plan would end on November 30, 2017. This was because he was no longer eligible to enroll in health insurance through NYSOH.

On December 15, 2017, you updated your household's application for financial assistance. Specifically, you updated your household's income information and added your newborn child's social security number to the account.

On December 16, 2017, NYSOH issued a notice of eligibility determination stating, in relevant part, that your newborn was eligible for Child Health Plus, with a \$60.00 monthly premium, effective January 1, 2018.

Also on December 16, 2017, NYSOH issued an enrollment confirmation notice stating that your newborn was enrolled in a Child Health Plus plan effective January 1, 2018.

On December 17, 2017, you uploaded a copy of your newborn's social security card to your NYSOH account.

On December 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your newborn's Child Health Plus subsidy for the

month of December 2017 requesting that his coverage be reinstated for December 2017.

On February 27, 2018, you were scheduled for a telephone hearing with a Hearing Officer from the NYSOH's Appeals Unit. However, you failed to appear for that hearing.

On March 1, 2018, NYSOH's Appeals Unit issued a Notice of Dismissal for failing to appear for your scheduled telephone hearing. The notice provided you with instructions to vacate the dismissal and to have the hearing rescheduled.

On March 12, 2018, NYSOH's Appeals Unit received a letter to show good cause to vacate your dismissal. The dismissal was vacated and another hearing was scheduled.

On April 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 supports the following findings of fact:

- 1) Your account reflects that you contacted NYSOH on August 5, 2017 and updated your account to reflect the birth of your newborn.
- 2) Your August 5, 2017 application states that your newborn is a US citizen however, that you were in the process of applying for a social security number at the time of your application.
- 3) You testified, and your NYSOH account confirms, that you elected to receive all of your notices from NYSOH by electronic mail.
- 4) You testified that you did not receive any electronic alerts notifying you to check your NYSOH account.
- 5) You testified that you were not aware that your newborn was disenrolled from his plan until you took him for a well visit in November 2017.
- 6) You testified that once you learned that your newborn's Child Health Plus plan was discontinued, you contacted NYSOH and updated your account.
- 7) You testified that you are seeking for your newborn's Child Health Plus to be reinstated for the month of December 2017.

- 8) 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 “the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices”.
- 9) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the August 6, 2017 or October 10, 2017 notices.
- 10) On December 15, 2017, you updated your household’s income to \$96,000.00.

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)).

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).

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) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL, but no more than \$180.00 per child (NY PHL § 2510(9)(d)(vi)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which was \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

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).

## 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 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 first issue is whether NYSOH properly determined that your newborn was disenrolled from his Child Health Plus plan with a \$45.00 monthly premium, 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.

In the eligibility determinations issued on August 6, 2017 and October 10, 2017, you were advised that your newborn was eligible for Child Health Plus, for a limited time, and that you needed to confirm his citizenship status and social security number by November 3, 2017.

The record reflects that NYSOH did not receive the requested documentation before the deadline.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. Although NYSOH contends that it complied with federal mandates regarding electronic notices, there is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on August 6, 2017 or October 10, 2017. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notices, which directed you that your newborn's eligibility was limited and that you needed to submit documentation to confirm his citizenship status and social security number in your application. There is also no evidence in your account documenting that any email alert was sent to you

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).



regarding the notice, that any such electronic alert failed, or that the notice was later sent to you by regular mail.

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 testified that you did not receive one, there is insufficient evidence in the record that NYSOH provided you by electronic means with proper notice that you needed to submit documentation of your newborn's social security number and citizenship status.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your NYSOH account, the November 10, 2017 discontinuance notice and the November 10, 2017 disenrollment notice, stating that your newborn was no longer eligible for Child Health Plus effective December 1, 2017 are **RESCINDED**.

The second issue is whether NYSOH properly determined that your newborn was eligible for Child Health Plus with a \$60.00 monthly premium, effective January 1, 2018.

On December 15, 2017, you updated your household's application for financial assistance. Specifically, you updated your household's income to \$96,000.00 which is 390.24% of the federal poverty level for a four-person household. As a result, your newborn was found eligible for Child Health Plus with a \$60.00 monthly premium, effective January 1, 2018. On December 15, 2017, you also selected a Child Health Plus plan with a \$60.00 monthly premium for your newborn.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month.

Since you selected a Child Health Plus plan on December 15, 2017, your newborn's plan properly took effect on the first day of the month following December 2017; that is, on January 1, 2018.

Therefore, the December 16, 2017 eligibility determination and enrollment notices, insofar as they apply to your newborn's eligibility, are **AFFIRMED**.

Your case is **RETURNED** to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of December 2017.

## **Decision**

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 November 10, 2017 discontinuance notice is RESCINDED.

The November 10, 2017 disenrollment notice is RESCINDED.

The December 16, 2017 eligibility determination notice is AFFIRMED.

The December 16, 2017 enrollment confirmation notice is AFFIRMED.

Your case is RETURNED to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of December 2017.

**Effective Date of this Decision: May 2, 2018**

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

NYSOH erred in terminating your newborn's Child Health Plus plan with a \$45.00 monthly premium effective December 1, 2017 without proper notice.

NYSOH properly determined that your newborn is eligible for Child Health Plus with a \$60.00 premium effective January 1, 2018.

Your case is being sent back to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of December 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 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 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
- By fax: 1-855-900-5557

### **Summary**

The November 10, 2017 discontinuance notice is RESCINDED.

The November 10, 2017 disenrollment notice is RESCINDED.

NYSOH erred in terminating your newborn's Child Health Plus plan with a \$45.00 monthly premium effective December 1, 2017 without proper notice.

The December 16, 2017 eligibility determination notice is AFFIRMED.

The December 16, 2017 enrollment confirmation notice is AFFIRMED.

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).

NYSOH properly determined that your newborn is eligible for Child Health Plus with a \$60.00 premium, effective January 1, 2018.

Your case is RETURNED to NYSOH to reinstate your newborn's coverage in his Child Health Plus plan with a \$45.00 monthly premium for the month of December 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 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. 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 אייך געבן א דאלמעטשער 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).