



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

## Notice of Decision

Decision Date: May 1, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028725



Dear [REDACTED]

On April 25, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 12, 2017 discontinuance and disenrollment notices, and January 21, 2018 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: May 1, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028725



## **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 you and your child were no longer qualified to enroll in health insurance through NYSOH for the months of December 2017 and February 2018?

## **Procedural History**

On October 30, 2017, NYSOH received your household's updated application for health insurance.

On October 31, 2017, NYSOH issued an eligibility determination stating that, for a limited time, you were eligible for the Essential Plan, effective December 1, 2017. That notice also stated that, for a limited time, your child was enrolled in Medicaid, effective November 1, 2017.

Also on October 31, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective October 1, 2017. That notice also directed you to select a plan for your child's enrollment.

On November 1, 2017, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, effective October 1, 2017. That notice also confirmed your child's enrollment in a Medicaid Managed Care plan, effective December 1, 2017.

On November 10, 2017, the October 31, 2017 eligibility determination notice was returned to NYSOH as undeliverable.

On November 12, 2017, NYSOH issued a discontinuance notice stating that you and your child were no longer eligible to receive health insurance through NYSOH because notices regarding your and your child's eligibility and coverage sent to you by NYSOH were returned as undeliverable. The effective date of your discontinuance was December 1, 2017, and November 12, 2017 for your child.

Also on November 12, 2017, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end December 1, 2017, and your child's enrollment in his Medicaid Managed Care plan would end on November 30, 2017.

On November 13, 2017, the October 31, 2017 plan enrollment notice was returned to NYSOH as undeliverable.

On January 2, 2018, NYSOH received your household's updated application for health insurance.

On January 3, 2018, NYSOH issued an eligibility determination stating that you were eligible for the Essential Plan, and that your child was eligible for Medicaid, both effective January 1, 2018.

Also on January 3, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, and your child's enrollment in a Medicaid Managed Care plan, both effective January 1, 2018.

On January 19, 2018, the January 3, 2018 eligibility determination notice and the January 3, 2018 plan enrollment notice were returned to NYSOH as undeliverable.

On January 21, 2018, NYSOH issued a discontinuance notice stating that you and your child were no longer eligible to receive health insurance through NYSOH because notices regarding your and your child's eligibility and coverage sent to you by NYSOH were returned as undeliverable. The effective date of your discontinuance was February 1, 2018, and January 21, 2018 for your child.

Also on January 21, 2018, NYSOH issued a disenrollment notice stating that your enrollment in your Essential Plan would end on January 31, 2018, and your child's enrollment in his Medicaid Managed Care plan would end on February 1, 2018.

On February 2, 2018, NYSOH received your household's updated application for health insurance.

On February 3, 2018, NYSOH issued an eligibility determination notice stating that you were eligible for the Essential Plan with a \$20.00 premium, and that your child was eligible for Child Health Plus with a \$0.00 monthly premium, both effective March 1, 2018.

Also on February 3, 2018, NYSOH issued a plan enrollment notice confirming your enrollment in an Essential Plan, and your child's enrollment in a Child Health Plus plan, both effective March 1, 2018.

On February 6, 2018, the January 21, 2018 discontinuance and disenrollment notices were returned to NYSOH as undeliverable.

On February 9, 2018, you spoke to NYSOH's Account Review Unit and appealed the gaps in your and your child's coverage for the months of December 2017 and February 2018.

On April 25, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed after the one telephone recording was reviewed.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you and your child reside at [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
- 2) According to your NYSOH account, this has been your mailing address and residential address since [REDACTED], including at the time of your applications for health insurance on October 30, 2017, January 2, 2018 and February 2, 2018.
- 3) You testified that you receive mail at this address and that you have received mail from NYSOH at this address in the past.
- 4) You testified that you did not receive any notices sent to this address in the months of October 2017, November 2017, December 2017, or January 2018, but that you did receive notices in February 2018.
- 5) According to your NYSOH account, no notices prior to October 2017 or after January 2018 were returned as undeliverable.
- 6) You testified that you are appealing your and your child's discontinuance and disenrollment from health insurance through NYSOH for the months of December 2017 and February 2018 because you have medical bills from those months.

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Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Essential Plan

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/downloads/ny-blueprint.pdf>).

The effective date of coverage by an Essential Plan 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); *see also* 42 CFR § 600.320). 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)).

To be eligible for enrollment in the Essential Plan, an applicant must be a resident of New York State (New York's Basic Health Plan Blueprint, p. 15, as approved January 2017; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>, 45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service area in which or she lives and either a) intends to reside, even without a fixed address, or b) has entered with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

### Medicaid

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-

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6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

To be eligible for enrollment in a Medicaid Managed Care plan through the New York State of Health, an applicant must be a resident of New York State (NY Public Health Law § 2510(6)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you and your child were no longer qualified to enroll in health insurance through NYSOH for the months of December 2017 and February 2018.

For an applicant to remain eligible for enrollment in the Essential Plan or a Medicaid Managed Care plan through NYSOH, they must meet both the financial and non-financial requirements. One of the non-financial requirements is that the applicant must be a New York State Resident.

On October 31, 2017 and November 1, 2017, NYSOH issued several notices which were returned as undeliverable. As a result of the returned mail, the system assumed that you and your child no longer met the state residency requirement for enrollment and you and your child were subsequently determined ineligible to enroll in health insurance through NYSOH, and you were both disenrolled from your health plans.

As such, on November 12, 2017, NYSOH issued a discontinuance notice stating that you were no longer qualified to enroll in health insurance through NYSOH. The effective date of your discontinuance was December 1, 2017, and November 12, 2017 for your child. NYSOH also issued a disenrollment notice stating that your enrollment in your Essential Plan would end December 1, 2017, and your child's enrollment in his Medicaid Managed Care plan would end on November 30, 2017.

On January 2, 2018, you updated your household's application, and on January 3, 2018, NYSOH issued an eligibility determination notice and a plan enrollment notice, both of which were returned as undeliverable.

As a result of the returned mail, the system again assumed that you and your child no longer met the state residency requirement for enrollment. You and your

child were again determined ineligible to enroll in health insurance through NYSOH, and you were both disenrolled from your health plans.

As such, on January 21, 2018, NYSOH issued a discontinuance notice stating that you and your child were no longer qualified to enroll in health insurance through NYSOH. The effective date of your discontinuance was February 1, 2018, and January 21, 2018 for your child. NYSOH also issued a disenrollment notice stating that your enrollment in your Essential Plan would end January 31, 2018, and your child's enrollment in his Medicaid Managed Care plan would end on February 1, 2018.

However, you testified that you and your child reside at [REDACTED] [REDACTED] [REDACTED] [REDACTED] the address where the returned notices were mailed. Your NYSOH account shows that this has been your mailing address and residential address since [REDACTED], including at the time of your applications for health insurance on October 30, 2017, January 2, 2018 and February 2, 2018. You testified that you received mail from NYSOH at this address before October 2017, and again after February 2017, and this is the same address listed on all the returned notices. There is sufficient evidence to conclude that you and your child have continuously resided at [REDACTED] [REDACTED] [REDACTED] [REDACTED] residence throughout the time in question, and that this has always been your mailing address. It is also reasonable to conclude that the notices that were returned to NYSOH as undeliverable were through no fault of your own and were likely returned by the U.S. Postal Service in error.

Therefore, the November 12, 2017 discontinuance and plan disenrollment notices are RESCINDED.

Therefore, the January 21, 2018 discontinuance and plan disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your eligibility and enrollment into your Essential Plan and your child's Medicaid eligibility and enrollment into his Medicaid Managed Care plan for the months of December 2017 and February 2018, and to notify you accordingly.

## **Decision**

The November 12, 2017 discontinuance notice is RESCINDED.

The November 12, 2017 plan disenrollment notice is RESCINDED.

The January 21, 2018 discontinuance notice is RESCINDED.

The January 21, 2018 plan disenrollment notice is RESCINDED.

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Your case is RETURNED to NYSOH to reinstate your eligibility and enrollment you into your Essential Plan and your child's Medicaid eligibility and enrollment into his Medicaid Managed Care plan for the months of December 2017 and February 2018, and to notify you accordingly.

**Effective Date of this Decision:** May 1, 2018

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

NYSOH incorrectly terminated your eligibility for and enrollment in the Essential Plan for the months of December 2017 and February 2018.

NYSOH incorrectly terminated your child's eligibility for Medicaid and his enrollment in his Medicaid Managed Care plan for the months of December 2017 and February 2018.

Your case is being sent back to NYSOH to reinstate your eligibility and enrollment you into your Essential Plan and your child's Medicaid eligibility and enrollment into his Medicaid Managed Care plan for the months of December 2017 and February 2018. NYSOH will notify you once this has been done.

### **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 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:

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).

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 12, 2017 discontinuance notice is RESCINDED.

The November 12, 2017 plan disenrollment notice is RESCINDED.

The January 21, 2018 discontinuance notice is RESCINDED.

The January 21, 2018 plan disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to reinstate your eligibility and enrollment you into your Essential Plan and your child's Medicaid eligibility and enrollment into his Medicaid Managed Care plan for the months of December 2017 and February 2018, and to notify you accordingly.

NYSOH incorrectly terminated your eligibility for and enrollment in the Essential Plan for the months of December 2017 and February 2018.

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NYSOH incorrectly terminated your child's eligibility for Medicaid and his enrollment in his Medicaid Managed Care plan for the months of December 2017 and February 2018.

Your case is being sent back to NYSOH to reinstate your eligibility and enrollment you into your Essential Plan and your child's Medicaid eligibility and enrollment into his Medicaid Managed Care plan for the months of December 2017 and February 2018. NYSOH will notify you once this has been done.

## **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 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 אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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