



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

Notice of Decision

Decision Date: April 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028738

[REDACTED]

[REDACTED]

On April 11, 2018, 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: April 24, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028738



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

Procedural History

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

On August 1, 2017, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible to enroll in Child Health Plus, effective September 1, 2017. The notice directed you to provide documentation confirming her citizenship status and social security number before October 29, 2017.

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

On November 4, 2017, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. She also could not enroll in a qualified health plan at full cost because you had not confirmed her citizenship status and social security number within the required timeframe.

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 child's coverage in her Child Health Plus plan would end effective November 30, 2017, because she is no longer eligible to enroll in health insurance through NYSOH.

On December 6, 2017, your child's social security number was added to your NYSOH account.

On December 7, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus, effective January 1, 2018.

Also on December 7, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan, effective January 1, 2018.

On February 9, 2018, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her Child Health Plus plan in the month of December 2017.

On April 11, 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) According to your NYSOH account, you indicated that your child was a U.S. citizen and that you were in the process of applying for a social security number for her.
- 2) According to your NYSOH account and your testimony, you receive electronic alerts by email regarding notices from NYSOH.
- 3) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to submit your child's social security number, or that your child's coverage would be ending.
- 4) You testified that you are only appealing your child's disenrollment from her Child Health Plus plan for the months of December 2017.
- 5) The record indicates that your child was added to your NYSOH account on July 31, 2017. The application that was submitted that day

indicates that she was a U.S Citizen but she did not have a social security number because you were in the process of applying for one.

- 6) You testified that you paid premiums for child's Child Health Plus plan for the month of December 2017.
- 7) You testified that you did not know your child had been disenrolled from her Child Health Plus plan until you received a bill in January 2018 for services rendered in December 2017.
- 8) According to your NYSOH account, on December 6, 2017 your child's social security number was added to your NYSOH account.
- 9) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" 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".
- 10) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the August 1, 2017 eligibility determination notice, or the November 4, 2017 discontinuance and disenrollment notices.

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

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).

(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,

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 must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child's eligibility for and enrollment in Child Health Plus terminated 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 citizenship status and social security number.

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 youngest child was added to your NYSOH account on July 31, 2017. The application that was submitted that day indicates that she was a U.S Citizen but she 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, 2018, you were advised that your child's eligibility for Child Health Plus was only conditional, and that you needed to confirm her citizenship status and social security number before October 29, 2017.

The record indicates that NYSOH did not have her social security number before the October 29, 2017 deadline.

As a result, on November 4, 2017, NYSOH issued a disenrollment notice stating that your 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 eligibility determination issued on that day, this was because NYSOH did not receive documentation of her citizenship status and social security number.

When NYSOH denies, terminates, or suspends a child's Child Health Plus coverage, they are required to provide sufficient notice so that a child's parent is able to take action to prevent a gap in coverage for the child. In this case, the

notice formally disenrolling your child from her Child Health Plus plan was dated November 4, 2017.

However, you testified and the record reflects that you elected to receive email 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 1, 2017 or November 4, 2017. You credibly testified that you did not receive an electronic alert regarding the August 1, 2017 eligibility determination notice, which notified you that you were required to submit her social security number by October 29, 2017, or the November 4, 2017 disenrollment notice, which notified you that your child's coverage was ending. There is also no evidence in your account documenting that any email alert was sent to you regarding the notices, that any such electronic alert failed, or that the notices were 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 email alerts, and you testified that you did not receive any, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to submit proof of your child's citizenship status and her social security number to your NYSOH account for your child to continue to receive financial assistance and health insurance through NYSOH or, if you did not, that her coverage would be ending.

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 child for the month of December 2017, such that the November 4, 2017 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2017, and to notify you accordingly.

Decision

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

Your case is RETURNED to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2017, and to notify you accordingly.

Effective Date of this Decision: April 24, 2018

How this Decision Affects Your Eligibility

Your child should not have been terminated from her Child Health Plus plan in December 2017, because NYSOH failed to give you proper notice.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus for the month of December 2017. NYSOH will notify you when this has been done.

You will be responsible to pay the monthly premium to the health plan directly for your child's coverage to take effect that month.

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:
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

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).

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

Your case is **RETURNED** to NYSOH to reinstate your child into her Child Health Plus plan for the month of December 2017, and to notify you accordingly.

Your child should not have been terminated from her Child Health Plus plan in December 2017, because NYSOH failed to give you proper notice.

Your case is being sent back to NYSOH to reinstate your child into her Child Health Plus for the month of December 2017. NYSOH will notify you when this has been done.

You will be responsible to pay the monthly premium to the health plan directly for your child's coverage to take effect that month.

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।

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 srε wo, frε 1-855-355-5777. ye&εtumi ama wo obi a okyerε 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).