



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

Notice of Decision

Decision Date: April 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028873

[REDACTED]

On April 16, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 2, 2018 discontinuance and plan 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 19, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028873

[REDACTED]

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 youngest child's eligibility for and enrollment in his Child Health Plus plan terminated effective February 1, 2018?

Procedural History

On September 27, 2017, your newborn child was added to your NY State of Health (NYSOH) account and an application was submitted on his behalf. That day, a preliminary eligibility determination was prepared stating, in part, that your youngest child was eligible to enroll in a Child Health Plus plan with a \$15.00 monthly premium, effective September 1, 2017.

On September 28, 2017, NYSOH issued a plan enrollment notice confirming, in part, that your youngest child was enrolled in a Child Health Plus plan with a \$15.00 monthly premium, effective September 1, 2017.

On October 1, 2017, NYSOH issued an eligibility determination notice, based on your September 27, 2017 application, stating in part that your youngest child was eligible to enroll in a Child Health Plus plan with a \$15.00 monthly premium, for a limited time, effective September 1, 2017. The notice requested that you provide documentation confirming your youngest child's citizenship status and Social Security number before December 26, 2017.

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On January 2, 2018, NYSOH issued a discontinuance notice stating that, effective February 1, 2018, your youngest child was no longer eligible for health insurance through NYSOH because you did not provide proof of his citizenship status and Social Security number and the date to send in this information had passed.

Also on January 2, 2018, NYSOH issued a plan disenrollment notice stating that your youngest child's coverage in his Child Health Plus plan would end effective January 31, 2018, because he was no longer eligible to enroll in health insurance through NYSOH.

On February 13, 2018, your NYSOH account was updated and your youngest child's Social Security number was added. That day, a preliminary eligibility determination notice was prepared stating, in part, that your youngest child was eligible to enroll in a Child Health Plus plan with a \$15.00 monthly premium, effective March 1, 2018.

Also on February 13, 2018, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from his Child Health Plus plan for the month of February 2018.

On February 14, 2018, NYSOH issued an eligibility determination notice stating, in part, that your youngest child was eligible to enroll in Child Health Plus plan with a \$15.00 per month premium, effective March 1, 2018.

Also on February 14, 2018, NYSOH issued a plan enrollment notice stating, in part, that your youngest child was enrolled in a Child Health Plus plan with a \$15.00 monthly premium, effective March 1, 2018.

On April 16, 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) You testified that you are only appealing your youngest child's disenrollment from his Child Health Plus plan in February 2018.
- 2) According to your NYSOH account, your youngest child was added to your NYSOH account on September 27, 2017. The application that was submitted that day indicates that he was a US Citizen but he did not have a Social Security number because you were in the process of applying for one.

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- 3) You testified that you did not know that you needed to submit proof of your youngest child's birth certificate or Social Security number.
- 4) According to your NYSOH account, your youngest child was disenrolled from his Child Health Plus plan, effective January 31, 2018.
- 5) You testified that you did not know that your youngest child had been disenrolled from his plan until you brought him [REDACTED] and you were informed that his health insurance coverage was not valid.
- 6) You testified that, as soon as you found out that your youngest child had been disenrolled from his coverage, you contacted NYSOH to reenroll him.
- 7) According to your NYSOH account, on February 13, 2018, your youngest child was found eligible for and enrolled in a Child Health Plus plan with a \$15.00 monthly premium, effective March 1, 2018.
- 8) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 9) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that your youngest child's eligibility was only for a limited time or that your youngest child had been disenrolled from his Child Health Plus plan.
- 10) 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".
- 11) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 1, 2017 eligibility determination notice, or the January 2, 2018 discontinuance and plan disenrollment notices.
- 12) You testified that you would like your youngest child's Child Health Plus plan to be reinstated for the month of February 2018, because he has unpaid medical bills from that month.

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

(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)).

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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, 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)).

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 under review is whether NYSOH properly determined that your youngest child's eligibility for and enrollment in his Child Health Plus plan terminated effective January 31, 2018.

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 September 27, 2017. The application that was submitted that day indicates

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that he was 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 October 1, 2017, you were advised that your youngest child's eligibility for Child Health Plus was only for a limited time, and that you needed to confirm his citizenship status and Social Security number before December 26, 2017.

The record indicates that NYSOH did not have your youngest child's Social Security number by the December 26, 2017 deadline. Subsequently, on January 2, 2018, NYSOH issued a plan disenrollment notice stating that your youngest child's coverage in his Child Health Plus plan would end effective January 31, 2018, because he was no longer eligible to enroll in health insurance through NYSOH. According to the discontinuance notice issued on that day, this was because NYSOH did not receive documentation of his citizenship status and Social Security number.

You testified that you did not know that you needed to submit proof of your youngest child's birth certificate or Social Security number. You further testified that you did not know that your youngest child had been disenrolled from his plan until you were informed by his doctor's office that his insurance coverage was not valid.

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 October 1, 2017 or January 2, 2018. You credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which stated that your youngest child's eligibility was for a limited time and that you needed to submit documentation to confirm your youngest child's citizenship status and social security number. You also testified that you did not receive electronic alerts regarding the January 2, 2018 discontinuance or plan disenrollment notices, which stated that your youngest child was disenrolled from coverage, effective January 31, 2018. There is also no evidence in your account documenting that any email alert was sent to you regarding these notices, that any such electronic alerts 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 them, there is insufficient evidence in the record that NYSOH provided you by electronic means with proper notice that you needed to submit documentation to verify your youngest child's citizenship and Social Security number or that your youngest child had been disenrolled from his Child Health Plus plan.

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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 youngest child for the month of February 2018 such that the January 2, 2018 discontinuance and plan disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reenroll your youngest child into his Child Health Plus plan with a \$15.00 monthly premium for the month of February 2018, and to notify you accordingly.

Decision

The January 2, 2018 discontinuance and plan disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reenroll your youngest child into his Child Health Plus plan with a \$15.00 monthly premium for the month of February 2018, and to notify you accordingly.

Effective Date of this Decision: April 19, 2018

How this Decision Affects Your Eligibility

Since NYSOH failed to give you proper notice, your youngest child should not have been terminated from his Child Health Plus plan in February 2018 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into his Child Health Plus plan with a \$15.00 monthly premium for the month of February 2018. NYSOH will notify you once this has been done.

You are responsible for the premium payments for all months your youngest child is enrolled into coverage.

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

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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
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

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The January 2, 2018 discontinuance and plan disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reenroll your youngest child into his Child Health Plus plan with a \$15.00 monthly premium for the month of February 2018, and to notify you accordingly.

Since NYSOH failed to give you proper notice, your youngest child should not have been terminated from his Child Health Plus plan in February 2018 for failure to submit proof of his citizenship status and Social Security number.

Your case is being sent back to NYSOH to reinstate your youngest child into his Child Health Plus plan with a \$15.00 monthly premium for the month of February 2018. NYSOH will notify you once this has been done.

You are responsible for the premium payments for all months your youngest child is enrolled into coverage.

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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