



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

## Notice of Decision

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029127



Dear [REDACTED]

On May 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 22, 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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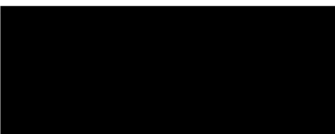


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## **Decision**

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029127



## **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 your children's eligibility for and enrollment in Child Health Plus terminated effective January 31, 2018?

## **Procedural History**

On October 18, 2017, your youngest child was added to your NYSOH account and an application was submitted on his behalf.

On October 19, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible for Child Health Plus, effective December 1, 2017, and your youngest child was conditionally eligible to enroll in Child Health Plus, effective October 1, 2017. The notice directed you to provide documentation confirming his citizenship status and Social Security number before January 16, 2018.

Also on October 19, 2017, NYSOH issued a plan enrollment notice confirming your oldest child's enrollment in a Child Health Plus plan, effective December 1, 2017, and your youngest child's enrollment in a Child Health Plus plan, effective October 1, 2017.

On January 22, 2018, NYSOH issued a discontinuance notice stating that your youngest 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. He also

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could not enroll in a qualified health plan at full cost. This was because you had not confirmed his citizenship status and Social Security number within the required timeframe.

Also on January 22, 2018, NYSOH issued an eligibility determination notice stating that your oldest child was eligible for Child Health Plus effective March 1, 2018. You were directed to select a health plan for your oldest child.

Also on January 22, 2018, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective January 31, 2018 because your youngest child was no longer eligible to enroll in health insurance through NYSOH, and your oldest child was no longer eligible to enroll in CDPHP.

On February 15, 2018, you submitted an updated application for financial assistance with health insurance.

On February 16, 2018, NYSOH issued an eligibility determination notice stating that your oldest child was eligible for Child Health Plus, effective March 1, 2018, and that your youngest child was eligible for Child Health Plus for a limited time, effective March 1, 2018. The notice directed you to provide documentation confirming his citizenship status and Social Security number before May 16, 2018.

Also on February 16, 2018, NYSOH issued a plan enrollment notice stating that your children were enrolled in a Child Health Plus plan, effective March 1, 2018.

On February 20, 2018, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan in the month of February 2018.

Also on February 20, 2018, your youngest child's Social Security card was uploaded to your NYSOH account.

On February 22, 2018, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in Child Health Plus, effective April 1, 2018.

Also on February 22, 2018, NYSOH issued a plan enrollment notice stating that your children were enrolled in a Child Health Plus plan, effective April 1, 2018.

On May 9, 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 children's disenrollment from their Child Health Plus plan for the month of February 2018.
- 2) Your NYSOH account indicates that your youngest child was added to your NYSOH account on October 18, 2017. The application that was submitted that day listed him as a U.S Citizen, who did not have a Social Security number because you were in the process of applying for one.
- 3) You testified that you did not know your children had been disenrolled from their Child Health Plus plan until you received notices from NYSOH in February 2018.
- 4) Your NYSOH account indicates that, on February 20, 2018, your youngest child's Social Security card was uploaded to your NYSOH account.
- 5) You testified that you are seeking Child Health Plus coverage for your children for February 2018, because you have outstanding bills for medical services rendered 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

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(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).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your children's eligibility for and enrollment in Child Health Plus 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 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 youngest child was added to your NYSOH account on October 18, 2017. The application that was submitted that day lists him as a U.S. Citizen, who did not have a Social Security number because you were in the process of applying for one.

In the eligibility determination issued on October 19, 2017, you were advised that your youngest child's eligibility for Child Health Plus was only conditional, and that you needed to confirm his citizenship status and Social Security number before January 16, 2018.

The record indicates that NYSOH did not have his Social Security number before the January 16, 2018 deadline.

On January 22, 2018, NYSOH issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end effective January 31, 2018, because your youngest child was no longer eligible to enroll in health insurance through NYSOH, and your oldest child was no longer eligible to enroll in CDPHP. According to the eligibility determination notices issued on that day, your youngest child was disenrolled because NYSOH did not receive documentation of his citizenship status and Social Security number, and your oldest child was required to select a new plan.

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. Notice is considered received five days after the date on the notice. In this case, the notice formally disenrolling your children from their Child Health Plus plan was dated January 22, 2018. Therefore, the notice terminating your children's enrollment would be considered received five days later; that is, as of January 27, 2018.

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When changes are made to an individual's application after the 15th of any month, NYSOH must make the redetermination that results from a change effective the first day of the second following month. Since you would have received NYSOH's notice terminating your children's Child Health Plus eligibility on January 27, 2018, after the fifteenth of the month, any changes you could have made to your account would not have been effective until March 1, 2018; thus, creating and not preventing a gap in coverage.

Therefore, it is concluded that 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 children for the month of February 2018.

As such, the January 22, 2018 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2018, and to notify you accordingly.

## **Decision**

The January 22, 2018 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2018, and to notify you accordingly.

**Effective Date of this Decision:** May 21, 2018

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

Since NYSOH did not give you sufficient notice to take action to prevent a gap in your children's CHP coverage, they should not have been terminated from their Child Health Plus plan in February 2018.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of February 2018. NYSOH will notify you once this is done.

You will be responsible to pay to your children's CHP Plan directly each of their monthly premiums owed for coverage to be effective for the month of February 2018.

## **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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The January 22, 2018 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your children into their Child Health Plus plan for the month of February 2018, and to notify you accordingly.

Since NYSOH did not give you sufficient notice to take action to prevent a gap in your children's CHP coverage, they should not have been terminated from their Child Health Plus plan in February 2018.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus for the month of February 2018. NYSOH will notify you once this is done.

You will be responsible to pay to your children's CHP Plan directly each of their monthly premiums owed for coverage to be effective for the month of February 2018.

## **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 मदद 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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