

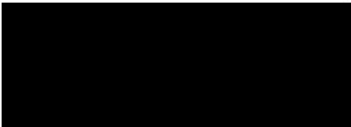


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029307



Dear [REDACTED]

On April 30, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 8, 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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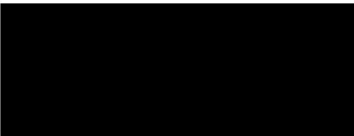


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: May 8, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029307



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 child's eligibility for, and enrollment in, her Child Health Plus (CHP) coverage was terminated, effective January 31, 2018?

Procedural History

On October 4, 2017, you updated your NYSOH account to reflect that your child needed health insurance, and an application was submitted on her behalf.

On October 5, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in CHP for a limited time with a \$30.00 per month premium, effective November 1, 2017. The notice requested that you provide documentation confirming her citizenship status before January 2, 2018.

Also on October 5, 2017, NYSOH issued a notice confirming your child's enrollment in a CHP plan, beginning November 1, 2017.

On January 8, 2018, NYSOH issued a discontinuance notice stating that your child was not eligible for Medicaid, CHP, the Essential Plan, 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 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 January 8, 2018, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end, effective January 31, 2018, because she was no longer eligible to enroll in health insurance through NYSOH.

On January 16, 2018, you updated your NYSOH account.

On January 17, 2018, NYSOH issued a notice of eligibility determination stating your child was eligible for CHP for a limited time with a \$9.00 monthly premium, beginning March 1, 2018. The notice directed you to submit documentation of your income by March 17, 2018, and documentation of your child's citizenship status by April 16, 2018.

Also on January 17, 2018, NYSOH issued a notice confirming your child's enrollment in a CHP plan, beginning March 1, 2018.

On January 23, 2018, you faxed documentation to NYSOH. This documentation was uploaded to your account by NYSOH on January 25, 2018 and February 2, 2018.

On February 3, 2018, NYSOH issued a notice stating the documentation you submitted did not confirm the information in your application. The notice directed you to submit documentation of your income by March 17, 2018, and documentation of your child's citizenship status by April 16, 2018.

On February 9, 2018, you again faxed documentation to NYSOH, and it was uploaded to your account by NYSOH that same day.

On February 12, 2018, NYSOH changed the income in your application from \$46,811.00 to \$60,443.00, and redetermined your child's eligibility.

On February 13, 2018, NYSOH issued a notice of eligibility determination stating your child was eligible for CHP for a limited time with a \$60.00 monthly premium, beginning March 1, 2018. The notice directed you to submit documentation of your income by March 17, 2018, and documentation of her citizenship status by April 16, 2018.

That same day, NYSOH issue a notice of enrollment confirmation, confirming your child's enrollment in a CHP plan, beginning March 1, 2018.

Also on February 13, 2018, NYSOH issue a notice stating the documentation you submitted did not confirm the information in your application. The notice directed you to submit documentation of your child's citizenship status by April 16, 2018, and documentation of your income by March 17, 2018.

On February 16, 2018, you again faxed documentation to NYSOH, and it was uploaded to your account by NYSOH on February 19, 2018.

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 February 20, 2018, NYSOH's system redetermined your child's eligibility.

On February 21, 2018, NYSOH issued a notice of eligibility determination stating your child was eligible for CHP with a \$60.00 monthly premium, effective April 1, 2018.

Also on February 21, 2018, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in her CHP plan, beginning March 1, 2018.

On February 23, 2018, you spoke to NYSOH's Account Review Unit and appealed your child's disenrollment from her CHP plan in the month of February 2018.

On April 30, 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 child's disenrollment from her CHP plan for the month of February 2018.
- 2) The record indicates that an application was filed on behalf of your child on October 4, 2017. The application that was submitted that day indicated that she was a US Citizen.
- 3) You testified your child has had CHP coverage through Fidelis for many years.
- 4) You testified this year, when it was time to renew her coverage, you were advised you needed to contact NYSOH, so you did.
- 5) You testified you believed the application was complete, and when you received a bill for your child's premium, you paid it.
- 6) You testified you were in the process of moving, and that you moved to a new address [REDACTED].
- 7) You testified, at the time you updated your application in October 2017, and for several months after that, your computer was in storage.

- 8) You testified you do not recall whether you were asked to provide documentation of your child's citizenship status when you completed the application over the phone in October.
- 9) You testified you did not receive the October 5, 2017 notice stating your child's eligibility was limited, and you needed to provide documentation of her citizenship.
- 10) You testified you were not sure if you received regular mail or email alerts from NYSOH, but that your computer was in storage and you did not give NYSOH your new address until you updated your application in January 2018.
- 11) Your NYSOH account reflects you are enrolled to receive email alerts regarding notices in your NYSOH account.
- 12) You testified you had access to your email on your phone during the time period when your computer was in storage, but you do not recall receiving any emails from NYSOH in that time.
- 13) You testified you did not find out your child's enrollment in her CHP coverage had ended until you received a notice from January 9, 2018 stating she was being disenrolled. However, you testified this notice went to your old address first, and was then forwarded to you.
- 14) You testified you contacted NYSOH to re-enroll your child as soon as you received the notice stating she had been disenrolled, and that the date you called was January 16, 2018.
- 15) You testified you were told your child's coverage would not begin until March 1, 2018, and she would be without coverage for February 2018.
- 16) You testified you were asked to provide citizenship documentation, so you provided your child's passport.
- 17) You testified you had to provide the passport more than once because NYSOH said they were unable to read it.
- 18) Your NYSOH account reflects you faxed a copy of your child's passport on January 23, 2018, February 9, 2018, and February 26, 2018, but only the [REDACTED] fax resulted in a legible copy.
- 19) You testified you were also asked to provide income documentation, and you faxed a copy of your 2016 federal income tax return, showing adjusted gross income of \$46,811.00 (Document [REDACTED])

- 20) Your NYSOH account reflects NYSOH reviewed this income tax return, and determined your income was \$60,443.00, then changed the income listed in your application.
- 21) You testified you had to fill a prescription for your child in the month of February and pay out of pocket, so you are looking to have her coverage reinstated for 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 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) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, 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

(NY PHL § 2511(2)(a)-(e)).

As a condition of eligibility for CHP, an individual, including children, must furnish 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)).

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 (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 CHP eligibility (42 CFR § 457.340(e)). When CHP coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow CHP 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 CHP 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 child's eligibility for, and enrollment in, CHP 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.

If NYSOH cannot verify an individual's citizenship status, 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 you first filed an application on behalf of your child through NYSOH on October 4, 2017. The application that was submitted that day indicated that she was a U.S Citizen.

In the eligibility determination issued on October 5, 2017, you were advised that your child's eligibility for CHP was for a limited time, and that you needed to provide documentation of her citizenship status before January 2, 2018.

You testified you do not recall whether you were informed on the phone that you would need to provide documentation of your child's citizenship status when you applied for coverage on her behalf on October 4, 2017. You testified you were in the process of moving, and did not receive any notices, and also do not recall receiving any emails regarding NYSOH's October 5, 2017 eligibility determination notice, which requested citizenship documentation for your child.

On January 8, 2018, NYSOH issued a disenrollment notice stating that your child's coverage in her CHP plan would end effective January 31, 2018 because she 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 her citizenship status.

When NYSOH denies, terminates, or suspends a child's CHP coverage, they are required to provide sufficient notice so that a child's parent is able to act to prevent a gap in coverage for the child. In this case, you testified you do not recall receiving an email from NYSOH regarding the October 5, 2017 eligibility determination notice. Additionally, though your NYSOH account indicates you are enrolled to receive email alerts, there is no notice in your account confirming your selection of this contact preference. You testified you received the January 8, 2018 disenrollment notice in the mail on January 16, 2018, and immediately contacted NYSOH to reenroll your child in coverage. You testified you do not recall receiving any emails in January 2018 from NYSOH.

Though the fact that you received the notice on the 16th instead may have been because you did not change your address with NYSOH, the issuance of the notice on January 8, 2018 still did not provide sufficient time for you to make changes to your account to prevent a gap in your child's coverage. Additionally, though your NYSOH account indicates you were enrolled to receive email alerts regarding notices in your NYSOH account, there is no evidence that such an email was sent regarding the January 8, 2018 notice.

Therefore, NYSOH failed to provide you with sufficient notice that would have allowed you to act to prevent a gap in CHP coverage for your child for the month of February 2018, and the January 8, 2018 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child in her CHP coverage for the month of February 2018, and to notify you when this has been done.

Additionally, though this issue was not under appeal, the record reflects that NYSOH redetermined your child's eligibility for financial assistance on February 12, 2018 after reviewing the income tax return you submitted. Though it was appropriate for NYSOH to utilize this documentation to verify your income, NYSOH is obligated to do so in an accurate manner. The documentation you submitted showed an adjusted gross income of \$46,811.00; therefore, if NYSOH accepted this documentation as valid proof of your income, then NYSOH should have made its determination of your child's eligibility utilizing an expected annual income of \$46,811.00. Instead, through an incomprehensible process of adding and subtracting figures that appeared on your tax return, NYSOH arrived at an expected annual household income of \$60,443.00, and redetermined your child's eligibility on this basis.

Because of NYSOH's error, your child was determined eligible for CHP with a \$60.00 monthly premium, effective March 1, 2018. This was incorrect. Therefore, your case is RETURNED to NYSOH to redetermine your child's eligibility for financial assistance based on a household of two with an expected annual income of \$46,811.00, effective February 1, 2018.

NYSOH is directed to notify you in writing of your child's new eligibility, and to ensure you are credited by your child's CHP plan for any excess in premium you may have paid because of NYSOH's error.

Decision

The January 8, 2018 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child into her CHP plan for the month of February 2018.

NYSOH is directed to notify you in writing when this is done.

Your case is RETURNED to NYSOH to redetermine your child's eligibility for financial assistance, effective February 1, 2018, based on a two-person household with an expected annual income of \$46,811.00.

NYSOH is directed to notify you in writing of your child's eligibility.

NYSOH is directed to ensure you are credited by your child's CHP plan for any excess in premium you have paid.

Effective Date of this Decision: May 8, 2018

How this Decision Affects Your Eligibility

Your child should not have been terminated from her CHP plan in February 2018 for failure to submit proof of her citizenship status.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the month of February 2018.

NYSOH will notify you in writing when this has been done.

NYSOH incorrectly redetermined your child's eligibility for financial assistance on February 12, 2018, using inaccurate income information.

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).

Your case is being sent back to NYSOH to redetermine your child's eligibility for financial assistance, effective February 1, 2018, utilizing the income figure in your 2016 federal income tax return.

NYSOH will notify you in writing of your child's eligibility, and will ensure you are credited for any excess in CHP premium you have paid in 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The January 8, 2018 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child into her CHP plan for the month of February 2018.

NYSOH is directed to notify you in writing when this is done.

Your case is **RETURNED** to NYSOH to redetermine your child's eligibility for financial assistance, effective February 1, 2018, based on a two-person household with an expected annual income of \$46,811.00.

NYSOH is directed to notify you in writing of your child's eligibility.

NYSOH is directed to ensure you are credited by your child's CHP plan for any excess in premium you have paid.

Your child should not have been terminated from her CHP plan in February 2018 for failure to submit proof of her citizenship status.

Your case is being sent back to NYSOH to reinstate your child into her CHP plan for the month of February 2018.

NYSOH will notify you in writing when this has been done.

NYSOH incorrectly redetermined your child's eligibility for financial assistance on February 12, 2018, using inaccurate income information.

Your case is being sent back to NYSOH to redetermine your child's eligibility for financial assistance, effective February 1, 2018, utilizing the income figure in your 2016 federal income tax return.

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 will notify you in writing of your child's eligibility, and will ensure you are credited for any excess in CHP premium you have paid in 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 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।

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. yeb&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.