



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

## Notice of Decision

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029847



Dear [REDACTED],

On May 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 17, 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: May 30, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000029847



## 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 children's enrollment in their Child Health Plus plans terminated effective January 31, 2018?

## Procedural History

On December 13, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance.

On December 14, 2017, NYSOH issued an eligibility determination stating that your children were eligible to enroll in a Child Health Plus plan with \$45.00 monthly premiums each, effective January 1, 2018. This notice further stated that your youngest child's eligibility was only for a limited time and that you needed to provide proof of his citizenship status and Social Security number by January 10, 2018.

Also on December 21, 2017, NYSOH issued a plan enrollment notice confirming your children's enrollment in their Child Health Plus plans, effective December 1, 2017.

On January 17, 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.

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On January 17, 2018, NYSOH also issued an eligibility determination notice stating that your other two children were eligible to enroll in a Child Health Plus plan with \$45.00 monthly premiums each, effective March 1, 2018.

Also on January 17, 2018, NYSOH issued a plan disenrollment notice confirming that all three your children's enrollment in their Child Health Plus plans terminated, effective January 31, 2018. This notice stating that this was because your two oldest children were no longer eligible to remain enrolled in their Child Health Plus plans and your youngest child was no longer eligible to enroll in health insurance through NYSOH.

On March 6, 2018, your NYSOH account was updated and your youngest child's Social Security number was added to your NYSOH account. That day, a preliminary eligibility determination notice was prepared stating that your children were eligible to enroll in Child Health Plus plans with \$15.00 monthly premiums each, effective April 1, 2018.

Also on March 6, 2018, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plans for the month of February 2018.

On March 7, 2018, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll into Child Health Plus plans with \$15.00 monthly premiums each, effective April 1, 2018.

Also on March 7, 2018, NYSOH issued a plan enrollment notice stating that your children were enrolled into Child Health Plus plans with \$15.00 monthly premiums, effective April 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 left open until May 23, 2018, to allow you time to submit supporting documentation.

As of May 23, 2018, the NYSOH's Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) Your NYSOH account indicates that an updated application for financial assistance was submitted on your behalf on December 13, 2017. The application that was submitted that day indicates that your

youngest child was a US Citizen but he did not have a Social Security number because you were in the process of applying for one.

- 2) You testified that you faxed a copy of your youngest child's Social Security card and birth certificate to NYSOH on December 20, 2017.
- 3) You testified that you contacted NYSOH to confirm that they received the fax and you were informed that they had received the documentation. However, there is no record of this telephone call in your NYSOH account.
- 4) Your NYSOH account does not indicate that a fax was received by NYSOH on December 20, 2017, and you failed to provide the Hearing Officer with confirmation of this fax.
- 5) Your NYSOH account indicates that your children were disenrolled from their Child Health Plus plans, effective January 31, 2018.
- 6) You testified you did not know that your children had been disenrolled from their plans until you received a medical bill in the mail from [REDACTED] and you were informed that you were being billed because your children did not have health insurance coverage.
- 7) You testified that as soon as you found out that your children had been disenrolled from their coverage, you contacted NYSOH to reenroll them.
- 8) Your NYSOH account indicates that, on March 6, 2018, your children were found eligible for Child Health Plus and re-enrolled in Child Health Plus plans with \$15.00 monthly premiums each, effective April 1, 2018.
- 9) You testified that you would like your children's Child Health Plus plans to be reinstated as of February 1, 2018, because they have 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

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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)).

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

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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 enrollment in their 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 an updated application for financial assistance with health insurance was submitted on your children's behalf on December 13, 2017. The application that was submitted that day indicates that your youngest child 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 December 14, 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 January 10, 2018.

Your NYSOH account indicates that the documentation confirming your youngest child's citizenship documents and Social Security number were not received by NYSOH before January 10, 2018. As a result, on January 17, 2018, NYSOH issued a plan disenrollment notice stating that your children's coverage in his Child Health Plus plan would end effective January 31, 2018, because they were no longer eligible to remain enrolled into coverage. According to the discontinuance notice issued on that day, your youngest child was disenrolled because NYSOH did not receive documentation of his citizenship status and Social Security number by the date requested.

However, you testified that you provided your youngest child's birth certificate and Social Security card to NYSOH on December 20, 2017 by fax, but that NYSOH did not receive the information. Regardless of whether you sent the necessary documentation by the due date, your NYSOH account indicates that the notice

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disenrolling your children from their Child Health Plus plan coverage was issued on January 17, 2018. It is noted that your two older children should not have been disenrolled since their eligibility was not conditional. Nonetheless, the disenrollment notice terminated coverage for all three children, which was in error as to your two older children.

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.

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 next following month. Since you would not have received NYSOH's notice terminating your children's Child Health Plus plan coverage until after the 15<sup>th</sup> of the month, any changes you would have made to your account would not have been effective until March 1, 2018, which would create a gap in coverage, not prevent one.

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 children for the month of February 2018, the January 17, 2018 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reenroll your children into their Child Health Plus plan with \$45.00 monthly premiums each as of February 1, 2018, and to notify you accordingly.

## **Decision**

The January 17, 2018 discontinuance and disenrollment notices are RESCINDED.

Your case is RETURNED to NYSOH to reenroll your children into their Child Health Plus plan with \$45.00 monthly premiums each as of February 1, 2018, and to notify you accordingly.

**Effective Date of this Decision:** May 30, 2018

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

Your children should not have been disenrolled from their Child Health Plus plans.

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 reinstate your children into their Child Health Plus plans with \$45.00 monthly premiums each as of February 1, 2018.

You are responsible to pay directly to the health plan the premium payments for February 2018, for your children's coverage to resume that month.

### **If You Disagree with this Decision (Appeal Rights)**

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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 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).

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 17, 2018 discontinuance and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to reenroll your children into their Child Health Plus plan with \$45.00 monthly premiums each as of February 1, 2018, and to notify you accordingly.

Your children should not have been disenrolled from their Child Health Plus plans.

Your case is being sent back to NYSOH to reinstate your children into their Child Health Plus plans with \$45.00 monthly premiums each as of February 1, 2018.

You are responsible to pay directly to the health plan the premium payments for February 2018, for your children's coverage to resume that month.

## **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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 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.

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