



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

## Notice of Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011490

[REDACTED]

Dear [REDACTED]

On January 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 5, 2016 eligibility determination and enrollment 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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## Decision

Decision Date: February 27, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000011490



## 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 was eligible for and enrolled your child in a Child Health Plus plan at full cost effective as of September 1, 2016?

## Procedural History

On April 6, 2016, two non-financial applications and one financial assistance application were submitted through NYSOH.

On April 7, 2016, NYSOH issued an eligibility determination notice stating that your child was newly eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan effective as of May 1, 2016. The notice explained that NYSOH was unable to confirm the information in your application with state and federal data sources. The notice directed you to provide additional income documentation before June 5, 2016, to confirm your child's eligibility.

On April 7, 2016, NYSOH issued an enrollment notice confirming that your child was enrolled in a Child Health Plus plan, with a monthly premium of \$60.00, effective May 1, 2016. The notice directed you to provide income documentation before June 5, 2016, to confirm your child's eligibility.

On May 2, 2016, NYSOH received biweekly earnings statements for your spouse



On May 18, 2016, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency with your account. However, the documentation was insufficient to resolve the request. The notice stated that income documentation had not been received to confirm your income.

On June 6, 2016, additional biweekly earnings statements for your spouse were faxed to NYSOH [REDACTED]

On June 9, 2016, NYSOH issued a notice stating that have submitted documentation to resolve the inconsistency with your account. However, the documentation was insufficient to resolve the request. The notice stated that income documentation had not been received to confirm your child's income.

On June 23, 2016, biweekly earnings statements were faxed to NYSOH to provide proof of income to confirm your child's eligibility [REDACTED]

On June 30, 2016, NYSOH updated your account.

On July 1, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus for a limited time, with a \$60.00 premium per month, effective August 1, 2016. The notice directed you to provide proof of your child's income by July 20, 2016, to confirm their eligibility.

On July 1, 2016, NYSOH issued an enrollment notice confirming that your child was enrolled in a Child Health Plus plan, with a monthly premium of \$60.00, effective May 1, 2016. The notice directed you to provide income documentation before July 20, 2016, to your child's eligibility.

On August 4, 2016, NYSOH redetermined your child's eligibility.

On August 5, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a full price Child Health Plus plan or a Child-Only qualified health plan effective as of September 1, 2016.

On August 5, 2016, NYSOH issued an enrollment notice confirming that your child was enrolled in Child Health Plus plan, with a monthly premium of \$213.87, effective September 1, 2016.

On August 16, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your child being determined eligible to enroll in a Child Health Plus plan at full cost.

On August 18, 2016, you faxed biweekly earnings statements for you and your spouse to NYSOH [REDACTED]

On August 26, 2016, you refaxed the income documentation that was sent to NYSOH on August 18, 2016 [REDACTED]

On January 9, 2017, you and your spouse, [REDACTED] 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 appealing the fact that your child was found eligible to enroll in a Child Health Plus plan at full cost effective September 1, 2016.
- 2) According to your NYSOH account, you attested to filing your 2016 federal income tax return, jointly with your spouse, and expected to claim your child as a dependent on that return.
- 3) According to your April 6, 2016 application, you attested to an expected household income of \$77,896.02.
- 4) On May 2, 2016, NYSOH received biweekly earnings statements for your spouse. The statements reflect that your spouse was issued:
  - (a) \$1,642.71 in federal taxable wages (wages) on 1/7/2016;
  - (b) \$2,102.91 in wages on 1/21/2016;
  - (c) \$1,675.01 in wages on 2/18/2016;
  - (d) \$2,353.20 in wages on 3/3/2016;
  - (e) \$1,618.49 in wages on 3/17/2016;
  - (f) \$1,981.81 in wages on 3/31/2016;
  - (g) \$1,755.74 in wages on 4/14/2016

(see [REDACTED]).

- 5) According to your NYSOH account, the documentation received on May 2, 2016 was verified on May 17, 2016. NYSOH invalidated the documentation based on:

Invalid proof of income. [REDACTED] submitted valid pay stubs but [REDACTED] is attesting to income from a job and submitted no documentation.
- 6) On June 6, 2016, additional biweekly earnings statements for your spouse were faxed to NYSOH. The statements reflect that your spouse was issued:

- (a) \$2,368.30 in gross pay on April 28, 2016;
- (b) \$3,016.76 in gross pay on May 12, 2016;

7) According to your NYSOH account, the documentation faxed to NYSOH on June 6, 2016, was verified on June 8, 2016. NYSOH invalidated the documentation based on:

Invalid proof of Income. [REDACTED] submitted three out of four weekly pay stubs. [REDACTED] would need to submit four consecutive pay stubs or letter from employer stating gross annual income information within 30 days of 4/6/2016 accompanied by [REDACTED] proof of income as well to satisfy [REDACTED] verification request.

8) On June 23, 2016, biweekly earnings statements were faxed to NYSOH. The statements reflect that you were issued:

- (a) \$1,323.20 in gross earnings on 3/17/2016;
- (b) \$1,275.20 on 3/31/2016;
- (c) \$1,323.20 on 4/14/2016

(see [REDACTED]).

9) On August 18, 2016, you faxed biweekly earnings statements for yourself and your spouse to NYSOH. The statements reflect that your spouse was issued:

- (a) \$1,789.74 in federal taxable wages on July 21, 2016;
- (b) \$2,139.56 in wages on August 4, 2016.

(see [REDACTED]).

The statements reflect that you were issued:

- (a) \$1,406.89 in gross earnings on 7/21/2016;
- (b) \$1,323.20 on 8/4/2016

(see [REDACTED]).

10) According to the "Appeal Summary" in the Evidence Packet that was created for your appeal. On August 16, 2016, you told the NYSOH representative in relevant part:

Appellant states [they] didn't receive the Renewal Notice and is being charged full pay for September. Appellant is seeking to pay...\$60 for the month of September.

- 11) According to your account you receive notices from NYSOH via regular mail.
- 12) According to your NYSOH, no documents have been returned to NYSOH as undeliverable.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Child Health Plus - Generally

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)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which was \$20,160.00 for a three-person household (81 Fed. Reg. 4036).

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

### Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

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## Child Health Plus – Proper Notice

NYSOH may not deny or terminate eligibility or reduce benefits for any individual on the basis of the information received, unless NYSOH has sought additional information from the individual and provided proper notice and hearing rights to the individual (42 CFR § 457.380(d); 42 CFR § 435.952(d)).

### **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child was eligible to enroll in a Child Health Plus plan at full cost effective September 1, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH. When an application requests financial assistance, NYSOH must verify an applicant's household income.

If NYSOH cannot verify the household income attested to by the applicant, through the use of available data sources, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with reasonable time to provide documentation or information to resolve that inconsistency.

In the April 7, 2016, eligibility determination notice, it explained that NYSOH was unable to confirm the information in your application with state and federal data sources and you were directed to provide additional income documentation before June 5, 2016, to confirm your child's eligibility.

On May 2, 2016, NYSOH received biweekly earnings statements for your spouse for the following dates: 1/7/2016; 1/21/2016; 2/18/2016; 3/3/2016; 3/17/2016; 3/31/2016, and 4/14/2016. However, on May 17, 2016, NYSOH invalidated the documentation because no documentation was submitted to demonstrate your income. The following day NYSOH issued you a notice stating that the documentation was insufficient to resolve the request and you needed to submit documentation to confirm your income. The notice included an acceptable "Documentation List" that included paycheck stubs for a period of at least four weeks.

On June 23, 2016, you faxed three biweekly earnings statements to NYSOH. Since the documents submitted satisfied the request stated in the May 19, 2016 notice, your account contained sufficient information for your child's eligibility to be finalized as of June 23, 2016. However, your account reflects that the documentation submitted on June 23, 2016 was never verified.



The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents.

You expected to file your 2016 federal income tax return jointly with your spouse, and expect to claim your child as a dependent on your return. Therefore, your child is in a three-person household for purposes of this analysis.

The earnings statements received by NYSOH on May 2, 2016 demonstrate that your spouse was issued \$1,981.81 on 3/31/2016 and \$1,755.74 on 4/14/2016. Based on the documentation submitted, your spouse's income should have been calculated to be  $(\$1,868.78 \times 26 \text{ biweekly periods})$  \$48,588.28.

The earnings statements received by NYSOH on June 23, 2016, demonstrate that you were issued \$1,275.20 on 3/31/2016 and \$1,323.20 on 4/14/2016. Based on the documentation submitted, your income should have been calculated to be  $(\$1,299.10 \times 26 \text{ biweekly periods})$  \$33,776.60.

A child is eligible to enroll in Child Health Plus with premium assistance if they have a household income below 400% of the applicable FPL. When household income exceeds 400% of that FPL, the parents are responsible for the full price of the monthly CHP premium payment.

On the date of your applications, the relevant FPL was \$20,160.00 for a three-person household. Your household income should have been calculated to be  $(\$48,588.28 + \$33,776.60)$  \$82,365.00 or 408.56% of the 2016 FPL. Therefore, if your income documentation was properly verified, your income would have exceeded the income threshold for Child Health Plus with financial assistance.

NYSOH may not deny or terminate eligibility or reduce benefits for any individual on the basis of the information received, unless NYSOH has provided proper notice and hearing rights to the individual.

The record reflects that you alleged that you did not receive any notice informing you that your child's financial assistance would be discontinued. However, the record supports that the relevant notices were issued to the address you have listed on your account on August 5, 2016, and that there is no indication that any of the notices were returned to NYSOH as undeliverable. Therefore, proper notice was given.

## **Decision**

The August 5, 2016 eligibility determination and enrollment notices are **AFFIRMED**.

**Effective Date of this Decision:** February 27, 2017

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

Your child was eligible to enroll in Child Health Plus plan at full cost effective September 1, 2016.

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

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 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**

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).

The August 5, 2016 eligibility determination and enrollment notices are AFFIRMED.

Your child was eligible to enroll in Child Health Plus plan at full cost effective September 1, 2016.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

