



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

Notice of Decision

Decision Date: May 10, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000015262

[REDACTED]

Dear [REDACTED],

On May 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2017 eligibility determination.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulation (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: May 10, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000015262



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 were not eligible to enroll in Child Health Plus (CHP), as of your January 26, 2017 application?

Procedural History

On September 7, 2016, you updated your NYSOH account and applied for financial assistance with health insurance on behalf of your two children.

On September 8, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP coverage with a \$15.00 monthly premium each, effective October 1, 2016. They were subsequently enrolled into a CHP plan, with an enrollment start date of October 1, 2016.

On January 26, 2017, NYSOH received your updated application for health insurance.

On January 27, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to purchase a qualified health plan at full cost, effective March 1, 2017. The notice further stated that your children were not eligible for CHP because they were currently enrolled in, or had access to, coverage through the NY State Health Insurance Program (NYSHIP).

That same day, NYSOH issued a disenrollment notice, stating that your children's coverage in their CHP plan was ending, effective February 28, 2017.

Also on January 27, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination, insofar as your children were not eligible for coverage through CHP. You also requested "Aid to Continue," pending the outcome of your appeal.

On February 2, 2017, NYSOH issued a notice stating that your children were eligible to enroll in CHP for a limited time, with the same \$15.00 premium as they previously were eligible for, effective March 1, 2017. This was because your Aid to Continue request was granted until a decision is made on your appeal.

On February 3, 2017, NYSOH issued an enrollment confirmation notice, confirming your children's enrollment in their CHP plan, beginning March 1, 2017. This was also pursuant to your request for Aid to Continue.

On May 5, 2017, 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 you work for New York State and your children are eligible for NYSHIP, and your NYSOH account confirms this.
- 2) You testified that you recently received a raise that would render your children ineligible for CHP with premium assistance, but that you wanted to pursue your appeal because you wanted to make a statement for the record.
- 3) You testified that, prior to receiving your raise, the cost of covering your children through NYSHIP would have amounted to twenty percent of your gross income. You testified that this would not have included dental or vision coverage for your children.
- 4) You testified that you believe that the fact that individuals who have access to NYSHIP are not eligible to enroll their children in CHP is an "egregious error" on the part of New York State.
- 5) You testified that you believe it is ridiculous to assume that, just because you have access to NYSHIP, you can afford to enroll your children in NYSHIP coverage.

- 6) You testified that, if you had enrolled your children in NYSHIP prior to receiving your raise, you would have had to make choices between insuring your children and paying your mortgage.
- 7) You testified that you believe NYSHIP should cost the same for everyone, and that it is not right that you have to pay more for coverage than people who work for other state agencies and departments.
- 8) You testified that you are currently enrolled in coverage through your employer, but you have not enrolled your children because they are still enrolled in CHP, pursuant to the Aid to Continue that was granted by NYSOH.

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

Applicable Law and Regulations

Child Health Plus

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

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) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

Children who have access to a state health benefits plan such as NYSHIP are not eligible to enroll in CHP (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 were not eligible to enroll in CHP coverage.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL.

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).

One of the non-financial eligibility requirements is that the child must not have access to a state health benefits plan such as NYSHIP. Children who have access to NYSHIP coverage are not eligible to enroll in CHP.

You testified that you work for NY State and that you have access to NYSHIP. However, you testified that the cost of coverage for your children is not affordable, as, prior to your recent raise, you would have had to pay twenty percent of your gross income to provide medical coverage (without dental and vision coverage). Nevertheless, affordability is not a relevant factor in this analysis, as your children's access to NYSHIP coverage prevents them from being found eligible for CHP, pursuant to NY State policy. Therefore, the NYSOH Appeals Unit is constrained to find that NYSOH's determination that your children were not eligible for CHP was correct.

Since the January 27, 2017 eligibility determination properly stated that, based on the information you provided, your children were not eligible to enroll in CHP coverage, it was correct and is AFFIRMED.

Decision

The January 27, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: May 10, 2017

How this Decision Affects Your Eligibility

Your children are not eligible for CHP because they have access to NYSHIP 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 must be done within four months of the Decision Date, which appears on the first page of this Decision.

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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 27, 2017 eligibility determination notice is AFFIRMED.

Your children are not eligible for CHP because they have access to NYSHIP coverage.

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Legal Authority

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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。我们可以为您免费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)

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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&tumi 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.

שׂוּדִישׁ (Yiddish)

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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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