



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

Notice of Decision

Decision Date: May 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015391



Dear [REDACTED]

On April 26, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 28, 2017 eligibility determination and enrollment plan 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).

This page intentionally left blank.

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

Decision

Decision Date: May 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000015391



Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health provide a timely determination of your child's eligibility for Child Health Plus as of January 28, 2017?

Did NY State of Health properly determine that your child's eligibility for and enrollment in her Child Health Plus plan was effective March 1, 2017?

Procedural History

On December 2, 2016, you created a NY State of Health (NSYOH) account and submitted an application for financial assistance with health insurance.

On December 3, 2016, NYSOH issued a notice stating more information was needed to make a determination regarding your child's eligibility. The notice explained that additional information was required to confirm eligibility for members of your household. You were asked to submit income documentation for your household by December 17, 2016 and citizenship status and the social security number for your child by March 2, 2017.

On December 15, 2016, NYSOH received your updated application, including two documents that were uploaded to your NYSOH account.

On December 16, 2016, NYOSH issued a notice stating more information was needed to make a determination regarding your child's eligibility. You were asked to submit income documentation for your household by December 17, 2016.

On December 17, 2016, NYOSH received your updated application, including three documents that were uploaded to your NYSOH account.

Also on December 17, 2016, you uploaded three documents to your NYSOH account.

On December 18, 2017, NYOSH issued a notice stating that more information was needed to make a determination, based on your December 17, 2016 application regarding your child's eligibility. You were asked to submit income documentation for your child by December 17, 2016 and income documentation for your spouse by March 2, 2017.

On December 28, 2016, NYSOH received your updated application.

On December 29, 2016, NYSOH issued a notice stating that more information was needed to make a determination with regards to your child's eligibility. This notice explained that additional information was required to confirm eligibility for members of your household. You were asked to submit income documentation for your child by January 12, 2017.

On January 3, 2017, you uploaded one document to your NYSOH account.

On January 5, 2017, NYOSH reviewed and invalidated the income documentation that was submitted on December 17, 2016.

On January 6, 2017, NYSOH issued a notice advising you that the documentation you submitted did not confirm the information in your application. This same notice requested that you submit additional proof of income for your child by January 27, 2017.

On January 17, 2017, you submitted four documents to your NYSOH account.

On January 25, 2017, NYOSH verified and invalidated the income documentation that was submitted.

On January 27, 2017, NYSOH received your updated application.

On January 28, 2017, NYSOH issued a notice advising you that the documentation you submitted did not confirm the information in your December 28, 2016 application. This same notice requested that you submit additional proof of income for your child by February 11, 2017.

Also on January 28, 2017, NYOSH issued an eligibility determination, based on your January 27, 2017 application, stating that your child was eligible for Child Health Plus with a \$30.00 monthly premium for a limited time, effective March 1, 2017. This notice further directed you to submit household income documentation by March 28, 2017.

On January 28, 2017, NYOSH also issued a plan enrollment notice, based on your plan selection for your child on January 27, 2017, stating that she was enrolled in a Child Health Plus plan with a \$30.00 monthly premium for a limited time, starting on March 1, 2017.

On January 31, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin as of [REDACTED] [REDACTED] which is the month in which your child was born.

On April 26, 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 that you are appealing only your child's eligibility and enrollment start dates.
- 2) According to your NYSOH account and your testimony, your child was born [REDACTED].
- 3) According to your NYSOH account, on December 2, 2016, you created your NYSOH account and included your child in your application for health insurance.
- 4) On December 15, 2016, you uploaded your spouse's weekly paystub, dated December 9, 2016, and your spouse's paystub, dated November 30, 2016.
- 5) On December 17, 2016, you uploaded the same documents that were uploaded on December 15, 2016.
- 6) On January 3, 2017, you uploaded a signed letter stating that you and your spouse support your child, dated January 3, 2017.
- 7) On January 5, 2017, NYSOH verified and invalidated your spouse's paystubs because you needed to submit four consecutive weekly pay

stubs for your spouse dated within thirty days of the December 28, 2016 application.

- 8) On January 17, 2017, you uploaded four of your weekly paystubs dated November 18, 2016, November 25, 2016, December 2, 2016, December 16, 2016.
- 9) On January 25, 2017, NYSOH verified and invalidated your income documentation because your spouse only submitted one week's worth of paystubs, and your paystubs were not within thirty days of the December 28, 2016 application.
- 10) The record reflects that you changed your spouse's expected annual income every time you updated your application. Your spouse's expected annual income ranged from \$1,822.00 to \$30,810.00 from your December 2, 2016 to your January 28, 2017 application.
- 11) According to your NYSOH account, on January 27, 2017, you submitted an updated application to NYSOH, in which you updated your spouse's expected annual income to \$30,810.00.
- 12) According to your NYSOH account, you selected and enrolled your child into a Child Health Plus plan on January 27, 2017 with a March 1, 2017 effective start date.
- 13) You testified that you need your child's Child Health Plus plan to begin on November 1, 2016, the first day of the month that she was born, because you have medical bills associated with [REDACTED].

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

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).

Timely Notice of Child Health Plus Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants who are infants younger than one year of age notice of their eligibility determination within 30 days from the date of the completed application (18 NYCRR §360-2.4(a)(3)(i)). NYS has elected to use a common application for Medicaid and Child Health Plus, therefore the timeliness standards for Child Health Plus determinations are the same as those for Medicaid determinations (see State Plan Amendment NY-CSPA-19, approved March 22, 2012 and effective November 11, 2011).

Child Health Plus

Child Health Plus is a sliding-scale-premium program for children who are in a household that is over-income for regular Medicaid (see NY Public Health Law § 2510 et seq.). Eligibility rules are set out in NY Public Health Law § 2511(2).

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

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

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).

month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

On December 22, 2015, the Governor of New York signed into law an amendment to NY Public Health Law § 2511(2)(g) stating that in the case of a newborn enrolled into Child Health Plus, the date of enrollment shall be the date of the child's birth if the parent applied for insurance prior to the child's birth or within 60 days after the child's birth. This amendment was scheduled to take effect as of January 1, 2016 (S04745B, Chap 577, Laws of New York, 2015).

However, on April 8, 2016, the Governor of New York signed an amendment to chapter 577 of the Laws of 2015, which delayed the effective date to January 1, 2017. The effect of this amendment is that it repealed the January 1, 2016 start date and there will continue to be a gap between the date of birth and the beginning date of Child Health Plus coverage for newborns until January 1, 2017. (S06421A, Chap 27, Laws of New York, 2016; NY Public Health Law § 2511(2)(i)).

Legal Analysis

The first issue is whether NYSOH provided you with a timely determination of your child's Child Health Plus eligibility as of January 28, 2017.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

You updated your NYSOH account on December 2, 2016. Your December 2, 2016 application listed an expected annual income for yourself of \$26,104.00 and an expected annual income for your spouse of \$1,822.00.

The income amount that was entered into this application did not match federal and state data sources. As a result, NYOSH asked that you submit additional documentation to confirm your household income.

On December 15, 2016, you uploaded your spouse's weekly paystub, dated November 30, 2016, and your spouse's weekly paystub, dated December 9, 2016.

Also on December 15, 2016, you submitted an updated application. This application listed an expected annual income for yourself of \$24,2014.00 and an

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).

expected annual income for your spouse of \$2,122.00; which was changed from \$1,822.00 you had listed in your December 2, 2016 application.

The new income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household income.

On December 17, 2016, you uploaded the same two paystubs for your spouse that you had uploaded on December 15, 2016.

On December 28, 2016, an application was submitted to NYSOH. This application listed an expected annual income for yourself of \$24,2014.00 and an expected annual income for your spouse of \$13,169.00; which was changed from the \$2,122.00 you had listed on your December 15, 2016 application.

The new income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your household income.

On January 3, 2017, you uploaded a letter, dated January 3, 2017 and was signed by both you and your spouse, stating that your child was a dependent of you and your spouse,

On January 5, 2017, NYSOH verified and invalidated your spouse's paystubs because you needed to submit four weekly pay stubs for your spouse dated within thirty days of the December 28, 2016 application.

On January 17, 2017, you uploaded four of your weekly paystubs dated November 18, 2016, November 25, 2016, December 2, 2016, December 16, 2016.

On January 25, 2017, NYSOH verified and invalidated your income documentation because you only submitted one week's worth of your spouse's paystubs, and your paystubs were not within thirty days of the December 28, 2016 application.

On January 27, 2017, NYSOH received your updated application. This application listed an expected annual income for yourself of \$24,2014.00 and an expected annual income for your spouse of \$30,810.00; which was changed from \$13,369.00 you had listed in your December 28, 2016 application.

Subsequently, your child was found eligible for Child Health Plus with a \$30.00 monthly premium, effective March 1, 2017.

NYSOH must provide applicants who are infants younger than one year of age notice of their eligibility determination within 30 days from the date of the completed application. To assess whether an eligibility determination was

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).

untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Prior to January 27, 2017, NYSOH could not verify the household income amount entered into your application against state and federal data sources. Therefore, NYSOH required that you submit additional documentation so it could confirm the information listed in your account. However, you never submitted sufficient income documentation that would allow NYSOH to confirm the information in your account; rather, you changed reported income on every application and prolonged the validation of income process. As a result, your application was not considered complete until you submitted a new application on January 27, 2017.

On January 28, 2017, NYSOH issued an eligibility determination notice that stated your child was eligible for a Child Health Plus plan with a \$30.00 monthly premium, for a limited time, effective March 1, 2017. Since NYSOH issued an eligibility determination notice one day from the date that your application was considered complete, the January 28, 2017 eligibility determination was timely.

The second issue under review is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan was effective March 1, 2017.

Your child was born [REDACTED] and on December 2, 2016 your child was added to your NYSOH account. Your child was not found eligible for Child Health Plus until January 27, 2017.

As of the date of your child's birth, in New York State the date on which a Child Health Plus plan can take effect depended on the day a person selects the plan for enrollment. If an application for insurance coverage is received through NYSOH by the 15th of the month, benefits are provided on the first day of the next month. If an application is received after the 15th of the month, coverage begins the first day of the second following month.

Your application and Child Health Plus enrollment selection for your child was received by NYSOH on January 27, 2017, so the effective date of that plan would be the first day of the second month following January 2017, that is, on March 1, 2017.

Although Section 2511 of the Public Health Law has been amended to provide for Child Health Plus retroactive coverage to the first of the month of birth for newborns, this amendment did not become effective until January 1, 2017. As your child was born prior to January 1, 2017, Child Health Plus coverage cannot be made retroactive to the first day of the month of birth of your child.

Therefore, the January 28, 2017 eligibility determination and plan enrollment notices stating respectively that your child's eligibility for and enrollment in her

Child Health Plus plan was effective March 1, 2017, are correct and must be AFFIRMED.

Decision

The January 28, 2017 eligibility determination notice is AFFIRMED.

The January 28, 2017 plan enrollment notice is AFFIRMED.

Effective Date of this Decision: May 18, 2017

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of your child's eligibility for and enrollment in her Child Health Plus plan is March 1, 2017.

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

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).

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 28, 2017 eligibility determination notice is AFFIRMED.

The January 28, 2017 plan enrollment notice is AFFIRMED.

This decision does not change your child's eligibility.

The effective date of your child's eligibility for and enrollment in her Child Health Plus plan is March 1, 2017.

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)

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).

000 00 000000000000 0000 000 00000 00000 000 000000000 00000000 00 00000,
0000000 000 1-855-355-5777 000000 00 00000 0000 00 000000 000 0000
00000000000 0000 0000000 0000 0000000 0000 000000

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&btumi 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.

אײִדיש (Yiddish)

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).

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.

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).