



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

## Notice of Decision

Decision Date: July 25, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000016326

[REDACTED]

Dear [REDACTED],

On June 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's alleged failure to issue a timely determination on your oldest child's eligibility for Medicaid.

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: July 25, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000016326

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) fail to issue a timely eligibility determination regarding your oldest child's eligibility, based on your October 19, 2016 application?

## Procedural History

On October 19, 2016, NYSOH received an application for health insurance.

On October 20, 2016, NYSOH issued a notice stating that the income information you provided in your application did not match what NYSOH received from state and federal data sources. You were requested to provide income documentation by November 3, 2016 so that your oldest child's eligibility could be determined.

On November 2, 2016, NYSOH received four earnings statements issued to your spouse by his employer, [REDACTED] reflecting a period worked between October 3, 2016 and October 30, 2016.

On November 14, 2016, NYSOH redetermined your oldest child's eligibility for health insurance.

On November 16, 2016, NYSOH issued a notice stating that the income documentation you provided did not confirm the information contained in your application. You were requested to provide additional income documentation by November 30, 2016 so that your oldest child's eligibility could be determined.

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On December 11, 2016, NYSOH redetermined your eligibility for health insurance.

On December 12, 2016, NYSOH issued an eligibility determination notice stating that your oldest child was eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2017. This was because NYSOH had not received the requested information to verify your income before the due date.

On December 20, 2016, NYSOH received a letter issued by your spouse's employer, dated December 15, 2016, confirming that he is compensated at a rate of \$18.00 per hour, and typically works 37 hours per week with a gross wage of \$666.00 per week.

On January 8, 2017, NYSOH redetermined your oldest child's eligibility for health insurance.

On January 9, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible to purchase a QHP at full cost, effective January 1, 2017. This was because NYSOH had not received the requested information to verify your income before the due date.

On January 11, 2017, NYSOH redetermined your oldest child's eligibility for health insurance.

On January 12, 2017, NYSOH issued an eligibility determination notice stating that your oldest child was eligible to purchase a QHP at full cost, effective January 1, 2017. This was because NYSOH had not received the requested information to verify your income before the due date.

On February 28, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were seeking for your oldest child to be found eligible for Medicaid, rather than eligible for a QHP at full cost.

On June 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) your spouse's Unemployment Insurance Benefit (UIB) Monetary Determination letter issued during December 2016 and (2) the corresponding UIB weekly benefit summary. The record was to be closed at 5:00pm ET on June 7, 2017, or upon the receipt of the above referenced documents, whichever occurred earlier.

On June 7, 2017, you provided copies of the above referenced documents to the Appeals Unit through your NYSOH account.

Accordingly, the record was closed on June 7, 2017.

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## Findings of Fact

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

- 1) You testified, and your NYSOH account reflects, that you expect to file your 2016 tax return as head of household and claim your two children as dependents. You further testified, and your NYSOH account reflects, that your children's father, who is your domestic partner, resides with you and your children.
- 2) Your oldest child was [REDACTED] as of the October 19, 2016 application.
- 3) You reside in [REDACTED], New York.
- 4) You testified that you are appealing only your oldest child's eligibility.
- 5) You submitted your application to obtain health insurance for your oldest child on October 19, 2016. In response to this application, NYSOH issued a notice requesting that you provide income documentation by November 3, 2016 to confirm his eligibility.
- 6) On November 2, 2016, you provided to NYSOH four earnings statements issued to your spouse by his employer, [REDACTED], reflecting that he received (1) \$652.50 for the period worked between October 3, 2016 and October 9, 2016, (2) \$612.00 for the period worked between October 10, 2016 and October 16, 2016, (3) \$684.00 for the period worked between October 17, 2016 and October 23, 2016, and (4) \$648.00 for the period worked between October 24, 2016 and October 30, 2016.
- 7) The income documents you provided for NYSOH were invalidated as having not been acceptable income since the earnings statement was too old; because they were not issued within 30 days of November 14, 2016. Your account reflects that you provided these documents in connection with the October 19, 2016 application.
- 8) On December 20, 2016, you provided to NYSOH a letter issued by your spouse's employer, dated December 15, 2016, confirming that he is compensated at a rate of \$18.00 per hour, and typically works 37 hours per week with a gross wage of \$666.00 per week. This document was confirmed as valid documentation for your spouse, but appears not to have had any effect on your oldest child's eligibility.
- 9) Your oldest child was found eligible to purchase a QHP at full cost, effective February 1, 2017.

10) You testified that you were seeking for your oldest child to be found eligible for Medicaid effective November 1, 2016, since you began the application process during October 2016. You further testified that you provided all documentation requested of you, and you are not clear on why your oldest child was not found eligible for Medicaid when your youngest child has been.

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

## **Applicable Law and Regulations**

### Verification Process

For 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)). 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)).

### Timely Notice of Medicaid 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 notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

### Medicaid for Children

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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In an analysis of Medicaid 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 \$24,300.00 for a four-person household (81 Federal Register 4036).

## **Legal Analysis**

The issue under review is whether NYSOH failed to issue you a timely eligibility determination based on your October 19, 2016 application.

For 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.

Your record reflects that you updated your application on October 19, 2016, in which you attested to income of \$0.00. You also attested that your domestic partner, who is the father of your children, had an expected yearly income of \$34,320.00, based on a weekly income of \$660.00, which was comprised solely of earnings from his position with [REDACTED].

On October 20, 2016, NYSOH issued a notice requesting you submit income documentation for your oldest child by November 3, 2016, to confirm your eligibility, because the income information you provided did not match what NYSOH had obtained from state and federal data sources.

On November 2, 2016, you provided to NYSOH four earnings statements issued to your spouse by his employer, [REDACTED] reflecting that he received (1) \$652.50 for the period worked between October 3, 2016 and October 9, 2016, (2) \$612.00 for the period worked between October 10, 2016 and October 16, 2016, (3) \$684.00 for the period worked between October 17, 2016 and October 23, 2016, and (4) \$648.00 for the period worked between October 24, 2016 and October 30, 2016.

Therefore, your application is considered to have been complete as of October 3, 2016 and November 2, 2016 for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

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In response to the documentation you provided, NYSOH continued to issue notices requesting additional income documentation. We find however that you provided sufficient income documentation to render an eligibility determination as of November 2, 2016.

Accordingly, we find that NYSOH erred in not issuing you an eligibility determination within 45 days after you had provided the requested income documentation.

Your oldest child is in a four-person household; while you anticipated filing your 2016 tax return as head of household, and claiming your two children as your dependents, your oldest child's father also resides with you as your domestic partner, so he is part of your child's household size for the purpose of determining NYSOH eligibility.

The credible evidence of record reflects that based on the earnings statements you provided on November 2, 2016, your expected household income at that time was \$33,754.50.

Accordingly, your case is RETURNED to (1) redetermine your oldest child's eligibility as of November 2, 2016, based on a four-person household in [REDACTED], with an annual household income of \$33,754.50, and (2) facilitate your child's enrollment a health plan as of November 2, 2016.

## **Decision**

NYSOH erred in not issuing you an eligibility determination within 45 days after you had provided the requested income documentation.

Your case is RETURNED to (1) redetermine your oldest child's eligibility as of November 2, 2016, based on a four-person household in [REDACTED], with an annual household income of \$33,754.50, and (2) facilitate your child's enrollment a health plan as of November 2, 2016.

**Effective Date of this Decision:** July 25, 2017

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

You will receive a new eligibility determination shortly reflecting your oldest child's eligibility for financial assistance as of November 2, 2016.



## **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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

NYSOH erred in not issuing you an eligibility determination within 45 days after you had provided the requested income documentation.

You will receive a new eligibility determination shortly reflecting your oldest child's eligibility for financial assistance as of November 2, 2016.

## **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 مجاناً.

### **বাংলা (Bengali)**

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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।

### **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 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.

### **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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