



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

Notice of Decision

Decision Date: August 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016695

[REDACTED]

Dear [REDACTED]

On July 20, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's January 6, 2017 eligibility determination, February 18, 2017 eligibility determination, and March 5, 2017 enrollment confirmation notice.

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

Decision

Decision Date: August 8, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016695



Issues

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

Was your appeal of NY State of Health's January 6, 2017 eligibility determination notice timely?

Did NY State of Health provide a timely determination of your child's Child Health Plus eligibility as of February 1, 2017?

Did NY State of Health properly determine that your child's eligibility for and enrollment in his Child Health Plus plan began on February 1, 2017?

Procedural History

On December 15, 2016, you updated your child's application for financial assistance.

Also on December 15, 2016, you faxed income documentation to NY State of Health (NYSOH).

On December 16, 2016, NYSOH issued a notice stating that the income information you provided did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to determine your child's eligibility. This notice directed you to submit income documentation for your household by December 30, 2016 in order for your child's eligibility to be determined.

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On January 5, 2017, NYSOH updated the income information in your application and submitted an application on your behalf.

On January 6, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$45.00 premium, effective February 1, 2017.

On January 24, 2017, you updated your child's application for financial assistance.

Also on January 24, 2017, you spoke with NYSOH's Account Review Unit and incident [REDACTED] was created wherein you requested that your child be found eligible for Child Health Plus as of January 1, 2017.

On January 25, 2017, NYSOH issued a notice stating that the income information you provided did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to determine your child's eligibility. This notice directed you to submit income documentation for your household by February 8, 2017 in order for your child's eligibility to be determined.

On January 26, 2017, you uploaded additional income documentation to your NYSOH account.

On February 6, 2017, NYSOH reviewed the income documentation you submitted on January 26, 2017 and determined that this was insufficient proof of your spouse's income as the paystubs that were submitted were not consistent in date and did not include the employer's name and address.

On February 7, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application and that additional income documentation was due by April 24, 2017.

On February 17, 2017, you updated your child's application for financial assistance.

On February 18, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus with a \$9.00 premium, effective April 1, 2017.

Also on February 18, 2017, NYSOH issued a notice of enrollment confirming your child's enrollment in his Child Health Plus plan with a plan enrollment start date of April 1, 2017.

On March 5, 2017, NYSOH issued a notice of enrollment confirming your child's enrollment in his Child Health Plus plan with a plan enrollment start date of April 1, 2017.

On March 8, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your child's Child Health Plus plan began on February 1, 2017 and not January 1, 2017.

On July 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during that 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 seeking to have your child's Child Health Plus plan begin on January 1, 2017 because you have outstanding bills for treatment your child received in January 2017.
- 2) Your NYSOH account reflects that you updated your child's application on December 15, 2016.
- 3) On December 15, 2016 you faxed income documentation to NYSOH. This documentation consists of a letter from yourself dated December 15, 2016 stating that your spouse is the only source of support for yourself and your child, as well as two biweekly paystubs for your spouse for pay dates November 25, 2016, for a gross pay amount of \$1,520.00, and December 9, 2016, for a gross pay amount of \$1,864.00. These documents were uploaded to your NYSOH account on January 3, 2017.
- 4) On January 5, 2017, NYSOH recalculated your household's income to be \$67,326.13, updated the income in your application, and submitted an application on your behalf.
- 5) Your NYSOH account reflects that on January 24, 2017 you updated your child's application.
- 6) Also on January 24, 2017, you spoke to NYSOH's Account Review Unit which resulted in incident [REDACTED] being created. The notes within this incident reflect that you were calling to have your child found eligible for Child Health Plus as of January 1, 2017, indicating that NYSOH miscalculated your household's income in the January 5, 2017 application. This incident further reflects that NYSOH granted a backdate of your child's coverage from April 1, 2017 to February 1, 2017.

- 7) On January 26, 2017 you submitted two of your spouse's paystubs for pay dates January 6, 2017 and January 20, 2017.
- 8) On February 6, 2017, NYSOH reviewed the income documentation you submitted on January 26, 2017 and determined that this was insufficient proof of your household's income because the paystubs you submitted were not consistent in date and did not include the employer's name and address.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Child Health Plus

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)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child’s family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL, but no more than \$27.00 per month per family (NY PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than \$54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL, but no more than \$135.00 per month per family (NY PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL, but no more than \$180.00 per child (NY PHL § 2510(9)(d)(vi)).

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).

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)).

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“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 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).

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)).

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 a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)). 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).

Legal Analysis

The first issue is whether your appeal of NYSOH's January 6, 2017 eligibility determination notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your child being found eligible for a Child Health Plus premium of \$45.00 on March 8, 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of NYSOH determining your child eligible for Child Health Plus with a \$45.00 premium, an appeal should have been filed by March 7, 2017. The record reflects that you filed your appeal on March 8, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, the record reflects that you contacted NYSOH on January 24, 2017 regarding NYSOH's miscalculation of your household income and the delay this had caused to your child's Child Health Plus eligibility and enrolled. The creation of this incident was within the 60-day time frame to appeal.

As you filed a formal appeal on March 8, 2017, which was within 60 days of the January 24, 2017 incident, your appeal was timely and will be addressed.

The second issue is whether NYSOH properly provided you with a timely determination of your child's Child Health Plus eligibility as of February 1, 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 children's application for financial assistance with health insurance on December 15, 2016. The 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 income.

Also on December 15, 2016 you submitted two paystubs and a letter to NYSOH via fax.

These paystubs were uploaded to your NYSOH account on January 3, 2017.

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Therefore, your application was complete as of December 15, 2016.

NYSOH must provide applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 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.

On January 5, 2017, NYSOH recalculated your household's income to be \$67,326.13 and updated the income in your application. That day, NYSOH submitted an application on your behalf including this recalculated annual income.

On January 6, 2017, NYSOH issued a notice of eligibility determination, based on the January 5, 2017 application, stating that your child was eligible for Child Health Plus with a \$45.00 premium, effective February 1, 2017.

However, this calculation of your household's annual income is entirely unsupported by the record and does not appear to be based on the application that was complete as of December 15, 2016.

Based on the documentation that was submitted on December 15, 2016, your household's annual income should have been calculated to be \$43,992.00 (\$1,520.00 added to \$1,864.00 for a gross of \$3,384.00, divided by four weeks for a weekly average of \$846.00, multiplied by 52 weeks).

As the January 6, 2017 relied upon income information that was not supported by the record, the January 6, 2017 eligibility determination is RESCINDED.

NYSOH has never determined your children's eligibility based on the information in your application which was complete as of December 15, 2016, therefore, there was no timely eligibility determination notice based on this application.

The third issue is whether NYSOH properly determined that your children's eligibility for and enrollment in their Child Health Plus plan began on February 1, 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

You submitted sufficient documentation of your household's income on December 15, 2016. Had NYSOH properly verified your income documentation, your child's eligibility for a Child Health Plus plan with a \$9.00 premium could

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have been determined as soon as December 15, 2016. Had NYSOH issued an eligibility determination on December 15, 2016, you would have been able to select a Child Health Plus plan as soon as December 15, 2016.

Were you able to select a Child Health Plus plan for your child as of December 15, 2016, your child's eligibility for and enrollment in her Child Health Plus plan would have taken effect on the first day of the first month following after December 15, 2016; that is, on January 1, 2017.

Therefore, the February 18, 2017 eligibility determination is MODIFIED to state that your child was eligible for Child Health Plus with a \$9.00 premium, effective January 1, 2017. The March 5, 2017 enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan with a \$9.00 premium was effective January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan as of January 1, 2017.

Decision

The January 6, 2017 eligibility determination is RESCINDED.

The February 18, 2017 eligibility determination is MODIFIED to state that your child was eligible for Child Health Plus with a \$9.00 premium effective January 1, 2017.

The March 5, 2017 enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan with a \$9.00 premium was effective January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan as of January 1, 2017.

Effective Date of this Decision: August 8, 2017

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in his Child Health Plus plan with a \$9.00 premium should have begun as of January 1, 2017.

Your case is being sent back to NYSOH to enroll your child in his Child Health Plus plan as of January 1, 2017.

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 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

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- By fax: 1-855-900-5557

Summary

The January 6, 2017 eligibility determination is RESCINDED.

The February 18, 2017 eligibility determination is MODIFIED to state that your child was eligible for Child Health Plus with a \$9.00 premium effective January 1, 2017.

The March 5, 2017 enrollment notice is MODIFIED to state that your child's enrollment in his Child Health Plus plan with a \$9.00 premium was effective January 1, 2017.

Your child's eligibility for and enrollment in his Child Health Plus plan with a \$9.00 premium should have begun as of January 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan as of January 1, 2017.

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، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

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&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.

אַײַדיש (Yiddish)

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