



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

Notice of Decision

Decision Date: August 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016704

[REDACTED]

Dear [REDACTED]

On June 30, 2017, [REDACTED] appeared as the authorized representative by telephone at a hearing on your appeal of NY State of Health's January 22, 2017 eligibility determination and plan enrollment notices regarding your children.

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 NY State of Health 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 Date: August 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016704



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 eligible to enroll in a full price Child Health Plus plan, effective March 1, 2017?

Procedural History

On November 17, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your November 16, 2016 application, stating in relevant part that your children were conditionally eligible for coverage through Child Health Plus (CHP) with a premium of \$30.00 each, effective January 1, 2017. That notice further directed you to provide household income documentation before January 15, 2017 to confirm your children's eligibility, or their financial assistance or eligibility to enroll through NYSOH might end. You were also directed to review the attachment to that notice "Request for Additional Information – Documentation List" to identify what types of documents could be used to confirm the information on your application.

Also on November 17, 2016, NYSOH issued a plan enrollment notice, based on your plan selection on November 16, 2016, confirming that your children were enrolled in a CHP plan with a total monthly premium of \$90.00 and that their enrollment in the plan would start January 1, 2017.

No updates were made to your account by January 15, 2017.

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Since the requested income documentation was not provided by the deadline of January 15, 2017, on January 22, 2017, NYSOH issued an eligibility determination notice, based on a January 21, 2017 system update, stating in part that your children were eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective March 1, 2017. This was because federal and state data sources showed your household income was more than \$146,920.00, which was above the allowable income range for the CHP program.

Also on January 22, 2017, NYSOH issued a disenrollment notice that stated your children's CHP plan would end effective February 28, 2017. This was because your children were no longer eligible to receive a subsidy in their current health insurance.

Also on January 22, 2017, NYSOH issued a plan enrollment notice confirming your children were enrolled in a CHP plan with a \$929.50 per month premium, effective March 1, 2017.

On March 6, 2017, NYSOH received your updated application for financial assistance for your children.

On March 7, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in CHP for a limited time with a \$30.00 monthly premium each, effective April 1, 2017. You were directed to provide income documentation before May 5, 2017 to confirm your children's eligibility, or their financial assistance or eligibility to enroll through NYSOH might end.

Also on March 7, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on March 6, 2017, confirming that your children were enrolled in a CHP plan and that coverage would start on April 1, 2017, at a total monthly premium rate of \$90.00.

Also on March 7, 2017, NYSOH issued a disenrollment notice that stated your children's current CHP plan would end effective March 31, 2017.

On March 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the level of your child's CHP premium for the month of March 2017.

On June 30, 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 children's eligibility for the month of March 2017.
- 2) According to your NYSOH account and your testimony, you expect to file your 2017 federal taxes using a tax filing status of married filing jointly and will claim your five children as dependents on that tax return.
- 3) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by regular mail.
- 4) According to your NYSOH account, there are no notices marked as returned mail.
- 5) According to your NYSOH account, you and your family reside in [REDACTED], New York.
- 6) You testified that during the November 16, 2016 update with a NYSOH representative that you were told you needed to submit your tax returns.
- 7) You testified that you received the November 17, 2016 eligibility determination and plan enrollment notices and you felt that everything was on track and that nothing had changed from your previous renewal applications.
- 8) You testified that, when you received the January 22, 2017 eligibility determination and enrollment notices stating that your children were eligible for and enrolled in a full cost CHP plan, you called NYSOH. You testified that NYSOH representative told you that you had not submitted the income documentation that was requested by the date required.
- 9) According to your NYSOH account and your testimony, you uploaded your 2015 Income Tax Return on March 8, 2017 and the 2016 Income tax Return on May 23, 2017.
- 10) You testified that you are appealing the determination that you had to pay full premium cost for your children's CHP plan for the month of March 2017.

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 from agency sources 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)).

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)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (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 (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 Public Health Law § 2511(2)(b)).

CHP 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. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

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

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 CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (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 (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 (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). On the date of your application, that was the 2016 FPL, which was \$37,140.00 for a seven-person household (81 Federal Register 4036).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were eligible to enroll in a full price CHP plan, effective March 1, 2017 through March 31, 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.

The income information that was entered into your application did not match federal and state data sources. As a result, on November 17, 2016, NYSOH issued an eligibility determination notice that stated your children were **conditionally eligible** to enroll in CHP for a cost of \$30.00 per month each, effective January 1, 2017 (emphasis added). The notice stated that additional information was needed to confirm your children's eligibility and you were required to submit proof of your household income by January 15, 2017. The notice also stated that if you did not send in this information within the required time frame, your children's eligibility would be based on the information in state and federal data sources. Further, you were directed to review the attachment to that notice “Request for Additional Information – Documentation List” to identify what types of documents could be used to confirm the information on your application.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. You testified that you received the November 17, 2016 eligibility determination notice.

Therefore, the record reflects that NYSOH properly notified you on November 17, 2016 that your children were only conditionally eligible for CHP and that you were required to submit proof of your household income by January 15, 2017.

The November 17, 2016 eligibility determination notice also included a "Request for Additional Information – Documentation List" which showed what other documents would be acceptable proof of income if your tax returns were not available. However, no documents were submitted by the January 15, 2017 deadline. The record reflects that your 2015 income tax return was uploaded on March 8, 2017 and the 2016 income tax return was uploaded on May 23, 2017.

You did not submit income documentation to confirm your household income by January 15, 2017, as directed. Therefore, NYSOH redetermined your children's eligibility without the benefit of that documentation using information obtained from federal and state data sources. Based upon that information, NYSOH found that your children were eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective March 1, 2017.

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. Premiums are on a sliding scale, dependent upon income. Since you failed to provide documentation as directed, NYSOH was within its authority to increase your premiums based on information regarding your income it received through state and federal data sources.

Therefore, the January 22, 2017 eligibility determination notice stating that your children were eligible to enroll in a full price CHP plan, effective March 1, 2017, is correct and must be AFFIRMED.

The January 22, 2017 plan enrollment notice confirming that your children's enrollment in their CHP plan was effective March 1, 2017 at a premium of \$929.50 per month, is correct and must be AFFIRMED.

According to your NYSOH account you submitted updated applications for financial assistance for your children after the January 22, 2017 eligibility determination and plan enrollment notices were issued. This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

Decision

The January 22, 2017 eligibility determination notice is AFFIRMED.

The January 22, 2017 plan enrollment notice is AFFIRMED.

This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

Effective Date of this Decision: August 1, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility for CHP or enrollment in a CHP plan.

Your children's CHP plan premium for the month of March 2017 is \$929.50.

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 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 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 22, 2017 eligibility determination notice is AFFIRMED.

The January 22, 2017 plan enrollment notice is AFFIRMED.

This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

This decision does not change your children's eligibility for CHP or enrollment in a CHP plan.

Your children's CHP plan premium for the month of March 2017 is \$929.50.

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 مجانًا.

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&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.

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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