



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

## Notice of Decision

Decision Date: July 6, 2017

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000016749



Dear [REDACTED],

On June 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 1, 2017 eligibility determination 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 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).

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## Decision

Decision Date: July 6, 2017

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000016749



## 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 for Medicaid, effective February 1, 2017?

## Procedural History

On March 3, 2016, NYSOH issued an eligibility determination notice stating that your children were eligible for Child Health Plus (CHP) at \$9.00 per month each, effective April 1, 2016. Your children were enrolled in a CHP plan on that same date.

On February 2, 2017, NYSOH issued a notice that it was time to renew your children's health insurance for the upcoming plan year. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether your children qualified for financial help paying for their coverage. The notice asked that you update the information in your account by March 15, 2017 or the financial assistance your children were receiving may end.

On February 28, 2017, NYSOH received three updates to your application for health insurance.

On March 1, 2017, NYSOH issued an eligibility determination notice based on the final update to your application provided on February 28, 2016, stating that your children were eligible for Medicaid, effective February 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).

Also on March 1, 2017, NYSOH issued a disenrollment notice stating that your children's CHP coverage would end effective March 31, 2016.

On March 9, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your child was eligible for Medicaid, and not eligible for CHP.

On June 15, 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) Your February 28, 2017 application reflected that you expected to file your 2017 tax return with a tax filing status of head of household, and that you would claim both of your children as dependents. You testified, however, that you would be claiming only your oldest child while your ex-spouse would be claiming your youngest child on your respective tax returns for 2017.
- 2) All applications you provided to NYSOH between February 19, 2014 and March 9, 2017 reflect that you would be claiming both of your children as dependents on your tax return.
- 3) The final application update that was submitted on February 28, 2017 listed annual household income of \$26,800.00, consisting solely of income you receive from your employment with [REDACTED]. You testified that this amount was correct.
- 4) You testified, and your NYSOH account reflects, that your oldest child receives \$1,095.00 per month in Social Security benefits due to the [REDACTED]. You further testified that you believed that your child's Social Security benefits ought to be included in your overall household income for purposes of determining their eligibility for financial assistance.
- 5) At the time of your February 28, 2017 application updates, your children were [REDACTED] old.
- 6) Your application states that you will not be taking any deductions on your 2017 tax return.
- 7) You live in [REDACTED] New York.

- 8) You testified that you would like your children to be eligible for CHP, and not Medicaid, because of the sparse selection of physicians who accept your children's Medicaid plan.

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

## **Applicable Law and Regulations**

### Medicaid for Children

A child who is at least one year of age but younger than nineteen 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 154% 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).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 2017 FPL, which was \$20,420.00 for a three-person household (82 Federal Register 8831).

### 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)).

### Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

“Gross income” is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1), (c)(1)(A)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children were eligible for Medicaid, effective February 1, 2017.

According to your NYSOH account, you expect to file as head of household for the 2017 tax year and claim both of your children as dependents. You testified that you would be claiming only your oldest child, while your ex-spouse would be claiming your youngest child, on your respective tax returns for 2017. However, all applications you provided to NYSOH between February 19, 2014 and March 9, 2017 reflected that you would be claiming both of your children as dependents on your tax return. Therefore, each of your children must be considered to be in a three-person household, based on your own applications.

On your February 28, 2017 application, you attested to an expected household income of \$26,800.00. The application also stated that your children are [REDACTED] old. You testified, and your NYSOH account reflects, that your oldest child receives \$1,095.00 per month in Social Security benefits due to the [REDACTED]. At the time of your application, your child received \$13,140.00 in income from Social Security survivor benefits, and received no earned income. Therefore, \$6,570.00 (one-half the amount of Social Security survivors benefits [REDACTED] receives) plus \$0.00 earned income equals \$6,570.00. Since \$6,570.00 is less than \$25,000.00, your child has no taxable income from Social Security and is not required to file a tax return based on unearned income. As a result, your child’s Social Security survivor’s benefits are not included in your household’s MAGI for purposes of determining their eligibility for financial assistance.

NYSOH relied upon the information you provided in your February 28, 2017 application update issuing its determination.

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).

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$26,800.00 is 131.24% of the 2017 FPL for a three-person household, NYSOH properly found your children to be eligible for Medicaid.

You testified that you want your children enrolled in health coverage through CHP and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through CHP.

Accordingly, the March 1, 2017 eligibility determination notice stating that your children were eligible for Medicaid is correct and is AFFIRMED.

## **Decision**

The March 1, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** July 6, 2017

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

Your children remain eligible for Medicaid.

## **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 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The March 1, 2017 eligibility determination notice is **AFFIRMED**.

Your children remain eligible for Medicaid.

### **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

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**A Copy of this Decision Has Been Provided To:**



## **Getting Help in a Language Other than English**

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### **Español (Spanish)**

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### **中文 (Traditional Chinese)**

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### **Kreyòl Ayisyen (Haitian Creole)**

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### **中文 (Simplified Chinese)**

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

### **বাংলা (Bengali)**

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. y&b&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **שׂוֹדִיִּשׁ (Yiddish)**

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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