



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

## Notice of Decision

Decision Date: July 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016759

[REDACTED]

Dear [REDACTED],

On June 7, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 28, 2017 plan enrollment 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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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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**Decision**

Decision Date: July 10, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016759

[REDACTED]

**Issue**

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

Did New York State of Health (NYSOH) properly determine that your eldest child was enrolled in a Child Health Plus (CHP) plan with an enrollment start date of March 1, 2017?

**Procedural History**

On November 21, 2016, and December 5, 2016, your NYSOH account was updated.

On November 23, 2016, and December 6, 2016, NYSOH issued notices stating, in relevant part, that your eldest child’s application had been reviewed, however, the income in the application does not match what NYSOH received from state and federal data sources. The notice directed you to submit additional proof of income by November 26, 2016, to confirm the information in your application.

On December 7, 2016, NYSOH systemically updated your account.

On December 8, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that your eldest child was eligible to purchase a qualified health plan at full cost, effective as of January 1, 2017, The notice stated that your eldest child was not eligible for financial assistance because the requested documentation to verify your household income was not received by the due date.

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On December 9, 2016, additional income documentation was uploaded to your NYSOH account (see Documents [REDACTED]).

On December 29, 2016, your NYSOH account was updated.

On December 30, 2016, NYSOH issued a notice stating, in relevant part, that your eldest child's application had been reviewed, however, the income in the application does not match what NYSOH received from state and federal data sources. The notice directed you to submit additional proof of income by January 13, 2017, to confirm the information in your application.

On January 9, 2017, additional income documentation was uploaded to your NYSOH account (see Documents [REDACTED]).

On January 26, 2017, your NYSOH was systemically updated.

On January 27, 2017, NYSOH issued an eligibility determination notice stating, in relevant part, that your eldest child was eligible for CHP with a monthly premium of \$9.00, effective as of March 1, 2017,.

On January 28, 2017, NYSOH issued a plan enrollment notice confirming that, as of January 27, 2017, your eldest child was enrolled in a CHP plan with an enrollment start date of March 1, 2017.

On March 10, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your eldest child's CHP plan enrollment start date was March 1, 2017 and not February 1, 2017.

On June 7, 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. According to your account and testimony, your eldest child was born on [REDACTED].
2. According to your account and testimony, your domestic partner is the father of your eldest child.

3. According to your account, you submitted applications for your eldest child on December 5, 2016 and December 29, 2016. You attested that you were not currently working and only your domestic partner was employed.
4. On December 6, 2016 and December 30, 2016, NYSOH issued notices directing you to submit additional income documentation. The notices included a list of acceptable documentation including: paycheck stubs for the last four weeks and a letter from your previous employer with a termination date (see Documents [REDACTED]).
5. On December 9, 2016 and January 9, 2017, you submitted a letter from your former employer stating that, as a result of your separation of employment effective August 29, 2016, your final paycheck has been issued (see Documents [REDACTED]).
6. On December 9, 2016, you submitted from your domestic partner's employer the following as proof of his income:
  7. Weekly earnings statements for 11/04/2016, 11/10/2016, and 11/18/2016; A letter stating, he did not work for the week of November 20-26, 2016 due to inclement weather and the Thanksgiving holiday  
  
(see Documents [REDACTED]).
8. According to your account, the documentation submitted to NYSOH on December 9, 2016 was not verified.
9. On January 9, 2017, you submitted weekly earnings statements from your domestic partner's employer for the check dates of: 12/16/2016; 12/23/2016; 12/30/2016, and 01/06/2017  
  
(see Documents [REDACTED]).
10. According to your account, on January 26, 2017, NYSOH determined that you submitted valid proof of income and determined your eldest child's eligibility for financial assistance.
11. According to your NYSOH account, your eldest child was enrolled in a CHP plan that you selected on January 27, 2017, with an enrollment start date of March 1, 2017.
12. You testified you want your eldest child's CHP plan to have an enrollment start date of February 1, 2017.

13. You testified that your eldest child incurred between \$600.00 and \$900.00 in medical expenses in February 2017 and you want the health plan to cover those expenses.

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

## **Applicable Law and Regulations**

### Timely Notice of 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 the completed 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 applicants notice of their eligibility determination within 30 days from the date of the application for a child who is at least 1 year of age but younger than 19 years of age (18 NYCRR 360-2.4(a)(3)(ii)).

### 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 – Start Date

The "period of eligibility" for CHP 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 [CHP], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [CHP] 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 CHP 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).

## Legal Analysis

The issue under review is whether NYSOH properly determined that your child's CHP plan enrollment start date was March 1, 2017.

On December 5, 2016, and December 29, 2016, you submitted applications through NYSOH for your eldest child. In those applications you attested that you were not currently working and your domestic partner was employed.

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 those applications did not match federal and state data sources. As a result, on December 6, 2016, and December 30, 2016, NYSOH issued notices directing you to submit additional income documentation to confirm your child's eligibility. The notices included a list of acceptable documentation, including paycheck stubs for the last four weeks and a letter from your previous employer with a termination date (see Documents [REDACTED]).

On December 9, 2016, you submitted a letter from your former employer stating that as a result of your separation of employment effective August 29, 2016, your final paycheck had been issued (see Document [REDACTED]). In addition, your domestic partner's weekly earnings statements for consecutive weeks of 11/04/2016, 11/10/2016, 11/18/2016, along with a letter from their employer stating they did not work the fourth week, November 20-26, 2016, were

submitted to NYSOH (see Documents [REDACTED]).

NYSOH must provide applicants notice of their eligibility determination within 30 days from the date of the completed application. The applicant must be notified if the application does not contain sufficient information to permit NYSOH to conduct an eligibility determination. 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.

The record reflects that NYSOH received your complete application for health insurance on December 9, 2016, and your household's income was ascertainable. Therefore, NYSOH had sufficient information to render an eligibility determination as of that date. However, the available record reflects that NYSOH never verified the documentation submitted on December 9, 2016. Had NYSOH properly and timely reviewed your income documentation within 30 days of December 9, 2016, it should have issued an eligibility determination notice no later than January 8, 2017.

Instead, you were directed to submit additional income documentation and complied on January 9, 2017, when you submitted four consecutive weekly earnings statements from your domestic partner's employer for the check dates of: 12/16/2016; 12/23/2016; 12/30/2016, and January 6, 2017.

On January 26, 2017, NYSOH verified the documentation submitted on January 9, 2017, and determined your eldest child eligible for CHP, effective March 1, 2017, as stated in the January 27, 2017 eligibility determination notice.

Since NYSOH issued an eligibility determination 49 days from December 9, 2016, the date your application should have been considered complete, the January 27, 2017 eligibility determination notice was unduly delayed and, thus, is deemed untimely.

Ordinarily, 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 from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

The record supports that the income and employment documentation provided to NYSOH as of December 9, 2017, was sufficient to satisfy NYSOH's request and NYSOH should have rendered an eligibility determination no later than January 8, 2017.

Had NYSOH timely issued an eligibility determination, you could have selected a CHP plan for your eldest child by or before the 15th of January 2017, for an

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enrollment start date to take effect the first day of the next following month; that is, as of February 1, 2017,

Therefore, the January 28, 2017, enrollment notice is MODIFIED to state that your eldest child was enrolled in a CHP plan with an enrollment start date of February 1, 2017.

Your case is RETURNED to NYSOH to effectuate your eldest child's CHP plan enrollment from February 1, 2017 through February 28, 2017.

## **Decision**

The January 28, 2017, enrollment notice is MODIFIED to state that your eldest child was enrolled in a CHP plan with an enrollment start date of February 1, 2017.

Your case is RETURNED to NYSOH to effectuate your eldest child's CHP plan enrollment from February 1, 2017 through February 28, 2017, and to notify you accordingly.

**Effective Date of this Decision:** July 10, 2017

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

Your case is being sent back to NYSOH to change your eldest child's CHP enrollment start date to February 1, 2017. NYSOH will notify you once this has been done.

You will be responsible to pay any health insurance premiums in order to effectuate coverage for that month.

## **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.

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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  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The January 28, 2017, enrollment notice is MODIFIED to state that your eldest child was enrolled in a CHP plan with an enrollment start date of February 1, 2017.

Your case is RETURNED to NYSOH to effectuate your eldest child's CHP plan enrollment from February 1, 2017 through February 28, 2017, and to notify you accordingly.

Your case is being sent back to NYSOH to change your eldest child's CHP enrollment start date to February 1, 2017. NYSOH will notify you once this has been done.

You will be responsible to pay any health insurance premiums to effectuate coverage for that month.

## **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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## **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.

## **שׂוֹדִישׁ (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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