



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: AP000000017147

[REDACTED]

Dear [REDACTED]

On July 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 16, 2016 eligibility determination and December 16, 2016 disenrollment 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
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Decision

Decision Date: August 8, 2017

NY State of Health Account ID: [REDACTED]
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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 December 16, 2016 eligibility determination and December 16, 2016 disenrollment notice timely?

Did NY State of Health properly determine that your children were ineligible for and disenrolled from their Child Health Plus plan effective January 1, 2017?

Did NY State of Health provide a timely determination of your children's December 19, 2016 application for financial assistance with health insurance?

Procedural History

On December 13, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your children were conditionally eligible to enroll in a Child Health Plus plan, effective January 1, 2016.

Also on December 15, 2015 NYSOH issued a notice of enrollment confirming your children's enrollment in their Child Health Plus plan.

On March 15, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in a Child Health Plus plan, effective April 1, 2016.

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On October 22, 2016, NYSOH issued a renewal notice stating that your children still qualified for coverage with Child Health Plus with a \$45.00 monthly premium per child, effective January 1, 2017. The notice also indicated that your children would be reenrolled into their Child Health Plus plan, effective January 1, 2017.

On November 19, 2016, NYSOH issued a notice of enrollment confirming that your children were enrolled in a Child Health Plus plan with a plan enrollment start date of January 1, 2017.

On December 15, 2016, you updated your household's application for health insurance through NYSOH. Specifically, you updated your household's application to a non-financial assistance application.

On December 16, 2016, NYSOH issued a notice of eligibility determination stating that your children were eligible to purchase a qualified health plan at full cost through NYSOH, effective January 1, 2017.

Also on December 16, 2016, NYSOH issued a disenrollment notice stating that your children's enrollment in their Child Health Plus plan would end on January 1, 2017. This was because they were no longer eligible to enroll in a Child Health Plus plan.

On December 19, 2016, you updated your household's application for health insurance. Specifically, you updated your household's application to a financial application and updated your household's income.

Also on December 19, 2016, you uploaded income documentation to your NYSOH account.

On December 20, 2016, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed in order for your children's eligibility to be determined. This notice further directed you to submit documentation of your household's income by January 3, 2017.

On January 14, 2017, NYSOH redetermined your household's eligibility for financial assistance.

On January 15, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible to purchase a qualified health plan at full cost through NYSOH, effective February 1, 2017.

On January 30, 2017, you updated your household's application for financial assistance.

Also on January 30, 2017, you spoke with NYSOH's Account Review Unit. This resulted in incident # [REDACTED] being created. The notes within this incident

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reflect that you were seeking to have your children's enrollment in their Child Health Plus plan backdated to January 1, 2017.

On January 31, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus with a \$9.00 monthly premium per child for a limited time, effective March 1, 2017. This notice directed you to submit income documentation by March 31, 2017 in order to confirm your children's eligibility for financial assistance.

Also on January 31, 2017, NYSOH issued a notice of enrollment confirming your children's enrollment in their Child Health Plus plan with a plan enrollment start date of March 1, 2017.

Finally, on January 31, 2017, NYSOH reviewed the income documentation you submitted and determined that this was invalid proof of income as your spouse had not submitted proof of her income. NYSOH updated your income listed in the application and submitted an application on your household's behalf.

On February 1, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible for Child Health Plus with a \$9.00 monthly premium per child for a limited time, effective March 1, 2017. This notice directed you to submit income documentation by March 31, 2017 in order to confirm your children's eligibility for financial assistance.

Also on February 1, 2017, NYSOH issued an enrollment notice stating that your children were enrolled in their Child Health Plus plan with a plan enrollment start date of March 1, 2017.

On March 22, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your children's Child Health Plus plan began on March 1, 2017 and not on January 1, 2017.

On July 17, 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 seeking to have your children's enrollment in their Child Health Plus plan begin January 1, 2017. You further testified that your children were without coverage for January 2017 and February 2017 and that your children do have medical bills for those months.

- 2) You testified that on December 15, 2016 you updated your household's application for health insurance.
- 3) Your NYSOH account reflects that on December 15, 2016, user "[REDACTED]" updated your household's application to a non-financial assistance application.
- 4) You testified that "[REDACTED]" is the username for your household's NYSOH account.
- 5) You testified that you and your spouse file your tax returns as married filing jointly.
- 6) You testified that you intend on claiming on three of your children as dependents on your 2017 tax return as all three live at home and do not work.
- 7) The application that you submitted on December 19, 2016 indicates that you and your spouse intend to file your 2017 tax return as married filing jointly and claim three dependents on that return.
- 8) On December 19, 2016 you uploaded your and your spouse 2015 joint tax return to your NYSOH account. Your 2015 tax return indicates that you and your spouse had wages of \$34,023.00, business income of \$26,357.00, rental income of \$4,433.00, and unemployment compensation of \$8,820.00 for total income of \$73,633.00. This return also indicates that you claimed deductions of \$1,862.00 for the deductible part of the self-employment tax, for an adjusted gross income of \$71,771.00. This return lists your three children as dependents.
- 9) The application you submitted on January 30, 2017 listed your annual expected household income as \$54,200.04.
- 10) On January 31, 2017, NYSOH reviewed the income documentation you submitted on December 19, 2016 and found this to be insufficient proof of your household's income because your spouse submitted no documentation of her income.
- 11) On January 31, 2017, NYSOH recalculated your annual expected income to be \$28,928.00 and updated your household annual expected income to be \$61,928.00.
- 12) On January 30, 2017 incident # [REDACTED] was created wherein you requested to have your children's Child Health Plus plan backdated to January 1, 2017 as the change to a non-financial application was in error. You contacted NYSOH on February 8, 2017 to follow-up on the status of the resolution of this request. This incident was not resolved until

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February 15, 2017 when NYSOH decided that your children were not eligible for backdating of their Child Health Plus coverage.

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

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)).

"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 December 16, 2016 eligibility determination and December 16, 2016 disenrollment notice was timely.

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The record reflects that you first contacted NYSOH to file a formal appeal regarding your children's ineligibility for and disenrollment from Child Health Plus, effective January 1, 2017, on March 22, 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 your children's ineligibility for and disenrollment from Child Health Plus, effective January 1, 2017, an appeal should have been filed by February 14, 2017. The record reflects that you filed your appeal on March 22, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, you contacted NYSOH on January 30, 2017 and created an incident regarding your children's lack of coverage for January 2017 and February 2017, which was within the 60-day time frame to appeal. You followed-up on this request on February 8, 2017. Additionally, this incident was not resolved until February 15, 2017.

As you filed a formal appeal on March 22, 2017, which was within 60 days of the resolution of the January 30, 2017 incident, your appeal was timely and will be addressed.

The second issue is whether NYSOH properly determined that your children were ineligible for and disenrolled from their Child Health Plus plan effective January 1, 2017.

On October 22, 2016, NYSOH issued a renewal notice stating that your children were eligible for Child Health Plus with a \$45.00 monthly premium per child, effective January 1, 2017. On November 19, 2016, NYSOH issued a notice of enrollment confirming your children's enrollment in their Child Health Plus plan with a plan enrollment start date of January 1, 2017.

Thereafter, on December 15, 2016, user "[REDACTED]" updated your household's application to a non-financial assistance application.

You testified that "[REDACTED]" is your username for your NYSOH account.

As the change to a non-financial application was made using your user name and not as the result of an error by an agent of NYSOH, NYSOH properly determined that your children were ineligible for and disenrolled from their Child Health Plus plan, effective January 1, 2017.

Therefore, the December 16, 2016 eligibility determination notice and the December 16, 2016 disenrollment notice are AFFIRMED.

The third issue is whether NYSOH provided a timely determination of your children's December 19, 2016 application for financial assistance with health insurance.

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 19, 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.

On December 19, 2016, you uploaded your and your spouse's 2015 joint tax return.

On January 31, 2017, NYSOH determined that the December 19, 2016 income documentation submission was invalid because your spouse had not submitted income documentation.

However, the record reflects that you and your spouse file a joint tax return and the 2015 tax return was a reflection of your and your spouse's annual income.

Therefore, your application was complete as of December 19, 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.

Although NYSOH updated your income based on your and your spouse's 2015 tax return, NYSOH failed to update your spouse's income based on that tax return.

As such, NYSOH has never determined your children's eligibility based on your application which was complete as of December 19, 2016, therefore, there was no timely eligibility determination notice issued based on this application.

As NYSOH has never issued a determination based on your December 19, 2016 application, your case is RETURNED to NYSOH to redetermine your children's eligibility for financial assistance as of December 19, 2016 based on a household

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of five residing in [REDACTED] with an annual expected household income of \$71,771.00 and to enroll your children in coverage effective February 1, 2017.

Decision

The December 16, 2016 eligibility determination notice is AFFIRMED.

The December 16, 2016 enrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for financial assistance as of December 19, 2016 based on a household of five residing in [REDACTED] with an annual expected household income of \$71,771.00 and to enroll your children in coverage effective February 1, 2017.

Effective Date of this Decision: August 8, 2017

How this Decision Affects Your Eligibility

Your children were properly found ineligible for and disenrolled from their Child Health Plus plan as of January 1, 2017.

NYSOH failed to issue a timely eligibility determination based on your December 19, 2016 application.

Your case is being sent back to NYSOH to redetermine your children's eligibility as of December 19, 2016 and to enroll your children in coverage as though their eligibility had been determined on December 19, 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

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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 December 16, 2016 eligibility determination notice is AFFIRMED.

The December 16, 2016 enrollment notice is AFFIRMED.

Your children were properly found ineligible for and disenrolled from their Child Health Plus plan as of January 1, 2017.

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NYSOH failed to issue a timely eligibility determination based on your December 19, 2016 application.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for financial assistance as of December 19, 2016 based on a household of five residing in [REDACTED] with an annual expected household income of \$71,771.00 and to enroll your children in coverage effective February 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، 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. 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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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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