



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

## Notice of Decision

Decision Date: July 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017319

[REDACTED]

Dear [REDACTED],

On July 13, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 24, 2016 eligibility determination notice and November 26, 2016 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: July 19, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000017319

[REDACTED]

## 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 November 24, 2016 eligibility determination notice and November 26, 2016 enrollment confirmation notice timely?

Did NY State of Health provide a timely determination of your [REDACTED] Child Health Plus eligibility as of January 1, 2017?

Did NY State of Health properly determine that your [REDACTED] eligibility for and enrollment in [REDACTED] Child Health Plus plan began on January 1, 2017?

## Procedural History

On December 6, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your [REDACTED] was eligible for Medicaid, effective December 1, 2015.

Also on December 6, 2015, NYSOH issued a notice of enrollment confirming your [REDACTED] enrollment in a Medicaid Managed Care plan as of January 1, 2016.

On December 15, 2015, you updated your application for financial assistance.

On December 16, 2015, NYSOH issued a notice of eligibility determination based on the December 15, 2015 application, stating that your [REDACTED] was no longer

eligible for Medicaid, but that [REDACTED] Medicaid coverage would continue until November 30, 2016, effective December 1, 2015.

On October 10, 2016, NYSOH issued a notice that it was time to renew your [REDACTED] health insurance. That notice stated that NYSOH did not have enough information from state and federal data sources to determine whether or not your [REDACTED] qualified for financial help paying for [REDACTED] coverage. The notice asked that you update the information in your account by November 15, 2016 or the financial assistance your [REDACTED] was receiving may end.

On November 8, 2016, NYSOH received your updated application for financial assistance with your [REDACTED] health insurance.

Also on November 8, 2016, you uploaded income documentation to your NYSOH account.

On November 9, 2016, NYSOH issued a notice stating that more information was needed to make a determination of your [REDACTED] eligibility. The notice explained that the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit documentation of your household's income by November 23, 2016.

Also on November 9, 2016, NYSOH issued a notice of disenrollment stating that your [REDACTED] enrollment in [REDACTED] Medicaid Managed Care plan would end on November 30, 2016.

On November 11, 2016, you updated your application for financial assistance with your [REDACTED] health insurance.

On November 12, 2016, NYSOH issued a notice stating that more information was needed to make a determination of your [REDACTED] eligibility. The notice explained that the income information you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit documentation of your household's income by November 23, 2016.

On November 22, 2016, you uploaded additional income documentation to your NYSOH account.

On November 23, 2016, NYSOH reviewed the income documentation you submitted. NYSOH recalculated your annual expected household income based on this income documentation and updated the income information in your application. NYSOH submitted the updated application on your behalf.

On November 24, 2016, NYSOH issued an eligibility determination stating that your [REDACTED] was eligible for Child Health Plus with a \$9.00 per month premium, effective January 1, 2017.

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On November 26, 2016, NYSOH issued a notice of enrollment confirming your plan selection on November 25, 2016, stating that your [REDACTED] was enrolled in [REDACTED] Child Health Plus plan as of January 1, 2017.

On March 27, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as your [REDACTED] Child Health Plus plan began on January 1, 2017 and not on December 1, 2016.

On July 13, 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 [REDACTED] Child Health Plus plan to begin on December 1, 2016 because you have outstanding bills for treatment your [REDACTED] received in December 2016.
- 2) The record reflects that you updated your account on November 8, 2016.
- 3) On November 8, 2016 you uploaded two paystubs to your NYSOH account. The first is for a pay adjustment which took place on October 13, 2016 for a gross pay amount of \$441.18 and the second is a biweekly paystub for pay date November 3, 2016 for a gross pay amount of \$1,369.21.
- 4) On November 22, 2016 you uploaded three biweekly paystubs to your NYSOH account. The first is for pay date October 6, 2016 for a gross pay amount of \$1,020.00; the second is for pay date October 20, 2016 for a gross pay amount of \$1,425.20; the third is for pay date November 17, 2016 for a gross pay amount of \$1,404.84.
- 5) On November 23, 2016, NYSOH reviewed the income documentation you submitted and determined this sufficient proof of your income.
- 6) On November 25, 2016 you enrolled your [REDACTED] into a Child Health Plus plan.
- 7) The record reflects that you receive all of your notices from NYSOH by electronic mail.
- 8) You testified that you have never changed the preference of how you receive notices from NYSOH from paperless to non-paperless or vice versa.

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- 9) You testified that you did not know that your [REDACTED] had been disenrolled from [REDACTED] coverage for December 2016 until you started receiving bills for treatment your [REDACTED] underwent in December 2016. You further testified that you did not begin receiving bills until February 2017.
- 10) You testified that you did not receive an e-mail alert directing you to the November 24, 2016 eligibility determination nor did you receive the determination by regular mail.
- 11) You explained that your delay in filing a formal appeal was because you thought your [REDACTED] had coverage in December 2016 and it was not until you began receiving bills in February 2017 that you learned there was an issue with your [REDACTED] coverage for December 2016.

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)).

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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 November 24, 2016 eligibility determination notice and November 26, 2016 enrollment confirmation notice was timely.

The record reflects that you first contacted NYSOH to file a formal appeal regarding your [REDACTED] enrollment start date of [REDACTED] Child Health Plus plan on March 27, 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 [REDACTED] enrollment start date of [REDACTED] Child Health Plus plan, an appeal should have been filed by January 23, 2017. The record reflects that you filed your appeal on March 27, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, your NYSOH account reflects that you elected to receive alerts regarding notices from NYSOH electronically. You credibly testified that you did not receive an electronic alert regarding the November 24, 2016 eligibility determination, nor did you receive this notification via regular mail. There is no evidence in your account documenting that any email alert was sent to you regarding the eligibility determination.

As you did not receive the November 24, 2016 eligibility determination, there is no indication that you were ever made aware of the eligibility effective date of your [REDACTED] Child Health Plus plan or your appeal rights.

You further testified that you became aware that your [REDACTED] was without coverage for December 2016 when you received bills for treatment your [REDACTED] underwent in December 2016, which bills you received in February 2017.

As you were not properly provided with the November 24, 2016 eligibility determination notice nor were you properly made aware of your appeal rights, and you contacted NYSOH shortly after learning that your [REDACTED] had no coverage



for December 2016, your failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal.

The second issue is whether NYSOH provided you with a timely determination of your [REDACTED] Child Health Plus eligibility as of January 1, 2017.

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 household's application for financial assistance with health insurance on November 8, 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 November 8, 2016, you uploaded income documentation to your NYSOH account. However, this documentation consisted of one biweekly paycheck and one pay adjustment which occurred on October 13, 2016. Therefore, this submission was insufficient to resolve the inconsistency in your account.

You again updated your household's application for financial assistance with health insurance on November 11, 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 November 22, 2016, you uploaded three biweekly paystubs to your NYSOH account.

Therefore, your application was complete as of November 22, 2016 for purposes of issuing an eligibility determination.

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.

NYSOH issued an eligibility determination notice on November 24, 2016 that stated that your [REDACTED] was eligible to for Child Health Plus with a \$9.00 premium effective January 1, 2017. Since NYSOH issued an eligibility determination two days from the date your application was considered complete, the November 24, 2016 eligibility determination was timely.

The third issue is whether NYSOH properly determined that your [REDACTED] eligibility for and enrollment in [REDACTED] Child Health Plus plan began on 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).

The record reflects that you contacted NYSOH on November 25, 2016 and enrolled your [REDACTED] into a Child Health Plus plan.

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.

Since the November 24, 2016 eligibility determination notice was timely issued, you were able to select a Child Health Plus plan for your [REDACTED] as of November 24, 2016. Your plan would therefore properly take effect on the first day of the second month following after November 2016; that is, on January 1, 2017.

Therefore, the November 24, 2016 eligibility determination notice and November 26, 2016 enrollment confirmation notice were correct and must be AFFIRMED.

## **Decision**

The November 24, 2016 eligibility determination notice was timely and is AFFIRMED.

The November 26, 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** July 19, 2017

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

This decision does not affect your [REDACTED] eligibility.

Your [REDACTED] enrollment in his Child Health Plus plan began as of January 1, 2017.

## **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.

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).

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 November 24, 2016 eligibility determination notice was timely and is **AFFIRMED**.

The November 26, 2016 enrollment confirmation notice is **AFFIRMED**.

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).

This decision does not affect your son's eligibility.

Your [REDACTED] enrollment in his Child Health Plus plan began 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، 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 nkyerekeremu a, ye sre wo, fre 1-855-355-5777. ye&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.

## **אײַדיש (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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