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

Notice of Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000018767

[redacted]

Dear [redacted],

On August 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 18, 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 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).

This page intentionally left blank.

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).

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

Decision

Decision Date: September 12, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000018767

[redacted]

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's eligibility for enrollment in their Child Health Plus with a monthly premium of $30.00 each was effective April 1, 2017?

Procedural History

On December 13, 2016, you submitted an application for financial assistance.

On December 14, 2016, NYSOH issued a notice of eligibility determination, based on your December 13, 2016 application, stating that your children were conditionally eligible for Child Health Plus effective January 1, 2017. You were directed to provide proof of income by February 11, 2017. The notice stated that if you missed the due date, you might lose your health insurance or receive less help paying for your coverage.

Also on December 14, 2016, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a Child Health Plus plan, with a $9.00 per month premium, effective January 1, 2017.

No income information was received by February 11, 2017.

On February 17, 2017, NYSOH redetermined your children's eligibility.

On February 18, 2017, NYSOH issued an eligibility determination notice stating that your children were redetermined eligible for Child Health Plus with a monthly premium of $30.00 each, effective April 1, 2017. This was because you did not send in documentation to confirm the household income in your application. The notice stated that the premium was determined based on information from state and federal data sources.

Also on February 18, 2017, NYSOH issued a notice of enrollment, stating that your children remained enrolled in a Child Health Plus plan, with a monthly premium of $30.00 each.

On April 14, 2017, NYSOH received your children's updated application for health insurance.

On April 15, 2017, NYSOH issued a notice of eligibility determination, based on your April 14, 2017 application, stating that your children were conditionally eligible to enroll in Child Health Plus with a $9.00 monthly premium each, effective May 1, 2017. The notice directed you to provide proof of income by June 13, 2017.

Also on April 15, 2017, NYSOH issued a notice of enrollment, based on your plan selection on April 14, 2017, stating that your children were enrolled in a Child Health Plus plan and that coverage would start on May 1, 2017.

On May 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the premium amount for your children's Child Health Plus plan during April 2017 insofar as it was $30.00 per month each and not $9.00 each.

No income information was received by June 13, 2017.

On June 19, 2017, NYSOH redetermined your eligibility.

On June 20, 2017, NYSOH issued an eligibility determination notice stating that your children were redetermined eligible for Child Health Plus with a monthly premium of $15.00 each, effective August 1, 2017. This was because you had not provided proof of income to confirm the household income listed in your application. The notice stated that the premium was determined based on information from state and federal data sources.

Also on June 20, 2017, NYSOH issued a notice of enrollment, stating that your children were enrolled in a Child Health Plus plan with a monthly premium of $15.00 each, and that coverage would start on August 1, 2017.

On August 18, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until September 1, 2017 for you to provide supporting documentation. On

August 18, 2017, the Appeals Unit received income documentation from you via fax. These documents were collectively marked Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

1) By notice dated December 14, 2016, NYSOH determined that your children were conditionally eligible for Child Health Plus, with a $9.00 per month premium, effective January 1, 2017. You were directed to provide proof of income by February 11, 2017.

2) You did not provide proof of income by February 11, 2017.

3) On February 17, 2017, NYSOH redetermined your children's eligibility for Child Health Plus including a monthly premium of $30.00 each, effective April 1, 2017 because you had not provided proof of income.

4) The record reflects that on April 14, 2017, NYSOH received your children's updated application for health insurance.

5) On April 15, 2017, NYSOH issued a notice stating that your children were conditionally eligible for Child Health Plus with a $9.00 monthly premium each, effective May 1, 2017. The notice directed you to provide proof of income by June 13, 2017.

6) On May 8, 2017, you spoke to NYSOH's Account Review Unit and appealed the premium amount for your children's Child Health Plus plan during April 2017 insofar as it was $30.00 per month each and not $9.00 each.

7) You did not provide proof of income by June 13, 2017.

8) On June 20, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for Child Health Plus with a $15.00 monthly premium each, effective August 1, 2017. This was because you did not provide income documentation to confirm the household income listed in your application.

9) You testified that you are filing your 2017 tax return with a tax filing status of married filing jointly. You testified that you will have two dependents on that tax return.

10) You testified that your spouse receives $1,321.00 per month in Social Security disability benefits.

11) You testified that your two children each receive $330.00 per month in Social Security benefits.

12) You testified that you plan on taking a health savings account deduction in the amount of $6,500.00 on your 2017 tax return.

13) You testified that you expect to have additional income in 2017 in the amount of $1,179.00 from a rental property you own.

14) You testified that you reside in [redacted].

15) You testified that you are seeking that your children be redetermined eligible for their Child Health Plus plan for April 2017 with a $9.00 monthly premium each.

16) After the hearing on August 18, 2017, you provided supporting documentation of your income on August 18, 2017 to the NYSOH Appeals Unit. The documentation included:

a. Your 2016 tax return;
b. A biweekly pay stub from your employer, [redacted], with a pay date of May 5, 2017 in the amount of $1,498.07;
c. A biweekly pay stub from your employer, [redacted], with a pay date of May 19, 2017 in the amount of $1,498.07;
d. A biweekly pay stub from your employer, [redacted], with a pay date of June 2, 2017 in the amount of $1,498.07;
e. A biweekly pay stub from your employer, [redacted], with a pay date of June 16, 2017 in the amount of $1,498.07;
f. A Social Security Benefit statement indicating that your spouse is currently receiving $1,321.00 per month in Social Security disability benefits;
g. A Social Security Benefit statement indicating that your son is currently receiving $330.00 per month in Social Security benefits;
h. A Social Security Benefit statement indicating that your daughter is currently receiving $330.00 per month in Social Security benefits.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (*see* 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (*see* New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for 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) (NY 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 PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from $9.00 per month to $60.00 per month (NY PHL § 2510(9)(d)).

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 $11,880.00 for a one-person household (80 Federal Register 3236, 3237).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (*see* 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan with a $30.00 per month premium each, was effective April 1, 2017.

By notice dated December 14, 2016, NYSOH determined that your children were conditionally eligible for Child Health Plus, with a $9.00 per month premium, effective January 1, 2017. You were directed to provide proof of income by February 11, 2017. You did not provide proof of income by February 11, 2017.

On February 18, 2017, NYSOH issued an eligibility determination notice stating that your children were redetermined eligible for Child Health Plus with a monthly premium of $30.00 each, effective April 1, 2017. This was because you did not send in documentation to confirm the household income in your application. The notice stated that the premium was determined based on information from state and federal data sources.

After the hearing on August 18, 2017, you provided documentation of your 2017 household income on August 18, 2017 to the NYSOH Appeals Unit. The income documentation you provided supports that your two children each receive $3,960.00 annually in Social Security benefits; your spouse receives $15,852.00 annually in Social Security disability benefits; you have income from your employment in the amount of $38,949.82 annually and you have additional income in 2017 in the amount of $1,179.00 from a rental property you own. You testified that you plan on taking a health savings account deduction in the amount of $6,500.00 on your 2017 tax return. Therefore, the record indicates that your expected 2017 annual household income is $57,400.82.

Since the income amount for utilized by NYSOH was incorrect and not supported by the record, the February 18, 2017 eligibility determination notice is RESCINDED. As the record now contains a more accurate representation of

what your household income is for 2017, your case is being RETURNED to NYSOH to redetermine your children's eligibility based on being in a household of 4, with an annual household income of $57,400.82 and residing in Cortland County, New York.

Decision

The February 18, 2017 eligibility determination notice is RESCINDED.

Your case is being RETURNED to NYSOH to redetermine your children's eligibility based on being in a household of 4, with an annual household income of $57,400.82 and residing in [redacted], New York.

Effective Date of this Decision: September 12, 2017

How this Decision Affects Your Eligibility

Your case is being RETURNED to NYSOH to redetermine your children's eligibility based on being in a household of 4, with an annual household income of $57,400.82 and residing in [redacted], New York.

This is not a final determination of your children's eligibility for Child Health Plus. Your case is sent back to NYSOH to redetermine your children's eligibility based on the evidence you presented at the hearing. NYSOH will notify you once a redetermination is made.

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 February 18, 2017 eligibility determination notice is RESCINDED.

Your case is being RETURNED to NYSOH to redetermine your children's eligibility based on being in a household of 4, with an annual household income of $57,400.82 and residing in [redacted], New York.

This is not a final determination of your children's eligibility for Child Health Plus. Your case is sent back to NYSOH to redetermine your children's eligibility based on the evidence you presented at the hearing. NYSOH will notify you once a redetermination is made.

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).

Legal Authority

We are issuing this determination in accordance with 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).

A Copy of this Decision Has Been Provided To:

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).

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)

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).

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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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 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).