



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

Notice of Decision

Decision Date: October 18, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000018898

[REDACTED]

Dear [REDACTED],

On August 17, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 3, 2017 eligibility determination notice and the May 13, 2017 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 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).

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Decision

Decision Date: October 18, 2017

NY State of Health Account ID: [REDACTED]
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Issue

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

Did NY State of Health (NYSOH) provide you with a timely determination of your children's eligibility following your March 20, 2017 updated application?

Did NYSOH properly determine that your children were not eligible for health coverage earlier than June 1, 2017?

Procedural History

On March 21, 2017, NYSOH issued a notice, based on your March 20, 2017 updated application, stating the income information in your application did not match the information received from state and federal data sources. The notice directed you to submit proof of your household income before April 4, 2017 or NYSOH would be unable to determine your children's eligibility for health coverage.

On March 29, 2017, NYSOH issued a notice stating the income documentation received was insufficient to confirm the information in your application. The notice directed you to submit additional income documentation by April 19, 2017 or your children might lose their insurance or receive less help paying for coverage.

Also on April 8, 2017, NYSOH issued a notice, based on the April 7, 2017 systematic eligibility redetermination, stating the income information in your application did not match the information received from state and federal data

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sources. The notice directed you to submit proof of your household income before April 19, 2017 or NYSOH would be unable to determine your children's eligibility for health coverage.

On May 3, 2017, NYSOH issued an eligibility determination notice, based on a May 2, 2017 systematic eligibility redetermination, stating your children were eligible for Child Health Plus with a \$9.00 monthly premium, effective June 1, 2017.

On May 11, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your children were not eligible for health coverage in April 2017.

On May 13, 2017, NYSOH issued an enrollment notice, based on your May 12, 2017 plan selections, confirming your children were enrolled in a Child Health Plus plan, effective June 1, 2017.

On August 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 this appeal only involves your children's coverage.
- 2) You submitted an updated application on January 20, 2017. That application indicated you were married, but that you would file your 2017 tax return with a tax filing status of head of household and you would claim your three children as dependents. The application indicated your spouse would file his 2017 tax return with a tax filing status of married filing separately.
- 3) According to your account, NYSOH was unable to verify the income information in your application and you, your spouse, and your children were placed in a pending status with income documentation requested by February 4, 2017 before NYSOH could determine the eligibility of anyone on the account.
- 4) On February 4, 2017, NYSOH received two biweekly paystubs for you, but nothing for your spouse. This documentation was invalidated because it did not match the information in your application.
- 5) NYSOH redetermined your family's eligibility on February 15, 2017, and found you and your family ineligible for financial assistance, because you

failed to timely submit sufficient documentation of your household's income.

- 6) On March 20, 2017, you submitted an updated application on behalf of you and your family. That application also indicated you were married, but you would file your 2017 tax return with a tax filing status of head of household and you would claim your three children as dependents. The application indicated your spouse would file his 2017 tax return with a tax filing status of married filing separately.
- 7) According to your account, NYSOH was still unable to verify the income information listed in your application and income documentation was requested by April 4, 2017, so NYSOH could determine your family's eligibility.
- 8) On March 21, 2017, NYSOH received the following updated biweekly paystubs submitted on your behalf:
 - a. Paystub with check date of February 23, 2017 in the gross amount of \$1,246.05.
 - b. Paystub with check date of March 9, 2017 in the gross amount of \$1,246.05.
 - c. This documentation was invalidated on March 28, 2017, because no documentation of your spouse's income was submitted. Additional documentation was requested by April 19, 2017.
- 9) On March 31, 2017, NYSOH first received documentation of your spouse's income. The following biweekly paystubs were submitted:
 - a. Paystub with check date of March 31, 2017 in the gross amount of \$726.55.
 - b. Paystub with check date of March 17, 2017 in the gross amount of \$623.59.
- 10) According to your account, NYSOH verified your spouse's paystubs on April 7, 2017 and increased the income amount listed in the application for him to \$17,551.82, based on the average gross income listed in the paystubs. Your income documentation was not verified at that time.
- 11) According to your account, NYSOH did not verify your income documentation uploaded on March 21, 2017 until May 2, 2017.

- 12) On May 2, 2017, NYSOH recalculated your annual income as \$32,397.30, based on the average gross income in the pay stubs previously submitted.
- 13) That day, NYSOH systematically redetermined your children's eligibility based on the total recalculated household income, including income for both you and your spouse, and found them eligible for Child Health Plus with a \$9.00 monthly premium, effective June 1, 2017.
- 14) According to your account, you selected a health plan for your children on May 12, 2017 and coverage through that plan became effective on June 1, 2017.
- 15) You and your spouse also enrolled in an Essential Plan, effective June 1, 2017.
- 16) You testified that you spoke to a NYSOH representative in March or April 2017 and they informed you that your children were Medicaid eligible so you should be able to take them to the doctor. You testified that you relied upon that information and took your child to the doctor and now you have an outstanding medical bill. You testified you are seeking to back date your children's Child Health Plus coverage to March 1, 2017, based on the misinformation you received.
- 17) You testified that you were aware that you had to submit income documentation, but you were advised in February 2017 that you did not have to submit documentation for your spouse, because you filed your taxes separately.
- 18) You testified that you and your spouse are "informally separated," that you live apart, and that you will file your taxes separately in 2017.
- 19) You, your spouse, and your three children are all included on your NYSOH account.
- 20) Your account and applications list the same mailing address and residence address for all members on your account, including your spouse.

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

Applicable Law and Regulations

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

Household Composition

In the case where a child is claimed by one parent as a dependent and is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

Verification Process

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 (45 CFR § 155.320(c)(1)(i)). 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 (45 CFR § 155.315(f)).

Medicaid Eligibility for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In an analysis of Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which is \$28,780.00 for a five-person household (82 Federal Register 8831).

Child Health Plus – Effective Dates of Enrollment

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).

Legal Analysis

The first issue is whether NYSOH provided you with a timely determination of your children’s eligibility following your March 20, 2017 updated application.

An updated application was submitted on behalf of you, your spouse, and your children on March 20, 2017. According to your account, NYSOH was unable to confirm the income information listed in that application.

Pursuant to the above regulations, for all individuals whose income is needed to calculate the household’s eligibility, NYSOH must request data 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. Following your updated application, NYSOH issued a notice on March 21, 2017,

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requesting proof of your household's income, by April 4, 2017, to confirm your children's eligibility for health insurance.

Your account confirms you uploaded two consecutive biweekly paystubs on March 21, 2017. However, there was no income documentation submitted on behalf of your spouse at that time and additional documentation was requested.

You testified that you and your spouse live apart and you will file your 2017 tax separately with you claiming all three children as your dependents; therefore, you did not understand why your spouse's income documentation was necessary. However, your account confirms that your spouse is listed on your account and that you both enrolled in an Essential Plan through that account, effective June 1, 2017. Furthermore, your account confirms that the mailing address and physical address for all members on your account, including your spouse, are the same.

Pursuant to the regulations, in the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return, the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, and (3) the child's children and siblings under the age of 19, or 21 if a full-time student.

According to the information in your account, you, your spouse, and your three children, under the age of 19, all reside at the same address. As such, you are considered to be in a five-person household for eligibility purposes and your spouse's income information was necessary to determine your children's eligibility for health insurance.

Your account confirms that NYSOH received your spouse's income documentation on March 31, 2017. That documentation was verified by NYSOH on April 7, 2017. However, your income documentation was not verified until May 2, 2017 and the eligibility determination finding your children eligible for Child Health Plus was not issued until May 3, 2017.

According to the regulations, NYSOH must provide applicants notice of their eligibility determination within 30 days from the date of the completed application for a child who is at least one year of age but younger than 19 years of age.

As discussed above, you submitted an updated application on March 20, 2017 however, NYSOH was unable to verify the income information listed in that application and additional documentation was requested. Therefore, the application was not deemed complete until NYSOH received income documentation for both you and your spouse to verify the information in the application. Your documentation was received on March 21, 2017 and your spouse's on March 31, 2017. Thus, your application was deemed complete on March 31, 2017.

According to the regulations, NYSOH had 30 days from the date of your completed application (in this case, March 31, 2017) to provide your children with an eligibility determination.

The evidence establishes NYSOH did not provide you with a determination of your children's eligibility until May 3, 2017, more than 30 days from the date of your last completed application. Accordingly, the May 3, 2017 eligibility determination notice was untimely.

The second issue under review is whether NYSOH properly determine that your children were eligible for health coverage earlier no earlier than June 1, 2017.

As discussed above, NYSOH failed to issue a timely determination of your children's eligibility following your March 20, 2017 updated application.

Your account confirms that NYSOH did not validate your paystubs until May 2, 2017 even though you submitted them on March 21, 2017. This was an error on the part of NYSOH.

Had NYSOH verified your income documents on April 7, 2017, the same day they verified your spouse's documentation, the verification would have been timely, and your children would have been eligible to enroll in Child Health Plus as early as May 1, 2017.

It is noted that you testified you are seeking to backdate your children's coverage to March 1, 2017, because you relied upon information received from a NYSOH representative in March or April 2017 indicating your children were eligible for Medicaid and their medical treatment would be covered. However, detrimental reliance on erroneous information received from a NYSOH representative in a phone call is not a basis for NYSOH to provide rights that the appellant would not otherwise have had (see, e.g., Smith v New York State & Local Retirement Sys., 199 AD2d 763 (1993); Matter of Grella v Hevesi, 38 AD3d 113, 117-118 (2007)).

In this case, the evidence establishes that your children were not eligible for Medicaid, since the record establishes your household income of \$49,949.12 is 173.55% of the 2017 FPL for a five-person household, which is over the 154% threshold to qualify your children for Medicaid. Therefore, your children cannot be found eligible for Medicaid simply because you may have relied on misinformation from a NYSOH representative.

Since the evidence establishes that your children were eligible for Child Health Plus, the earliest their coverage could have started if they were able to select a plan on April 7, 2017, the date in which your income documentation should have been verified, was May 1, 2017.

Accordingly, the May 13, 2017 enrollment confirmation notice stating your children's coverage in their Child Health Plus plan was effective June 1, 2017 is MODIFIED to reflect your children's coverage began May 1, 2017.

Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

Decision

The May 3, 2017 eligibility determination notice was untimely as to your children's eligibility.

The May 13, 2017 enrollment confirmation notice is MODIFIED to reflect your children's coverage began May 1, 2017.

Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

Effective Date of this Decision: October 18, 2017

How this Decision Affects Your Eligibility

The effective date of your children's Child Health Plus plan is May 1, 2017.

Your children were not eligible for health coverage in March or April 2017.

Your case is being sent back to NYSOH to ensure your children are enrolled in their Child Health Plus plan for the month of May 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.

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 May 3, 2017 eligibility determination notice was untimely as to your children's eligibility.

The May 13, 2017 enrollment confirmation notice is MODIFIED to reflect your children's coverage began May 1, 2017.

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Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

The effective date of your children's Child Health Plus plan is May 1, 2017.

Your children were not eligible for health coverage in March or April 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)

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।

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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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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.

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.