



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

Notice of Decision

Decision Date: September 26, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000019225

[REDACTED]

[REDACTED]

On September 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 2017 eligibility determination.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

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Decision

Decision Date: September 26, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000019225

[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 child was eligible to enroll in Child Health Plus (CHP) only at full cost, effective July 1, 2017?

Procedural History

On May 19, 2016, NYSOH issued a notice of eligibility determination stating that your child was eligible for CHP with a \$60.00 monthly premium, effective July 1, 2016. His enrollment in an MVP CHP plan was also confirmed that day.

On May 4, 2017, NYSOH issued a renewal notice stating that it was time to renew your child's application for financial assistance. The notice directed you to update your NYSOH application between May 16, 2017 and June 15, 2017, or the financial assistance your child was receiving could end.

On May 24, 2017, you updated your NYSOH account. That same day, NYSOH prepared a preliminary eligibility determination stating that your child was eligible to enroll in CHP at full cost, effective July 1, 2017.

Also on May 24, 2017, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination, insofar as your child was not eligible for CHP premium assistance. You also requested Aid to Continue, pending the outcome of your appeal.

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On May 25, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in a CHP plan at full cost, effective July 1, 2017.

Also on May 25, 2017, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in an MVP CHP plan with a monthly premium of \$240.48, beginning July 1, 2017.

On June 1, 2017, NYSOH issued a notice of eligibility determination, stating that your child was eligible to enroll in CHP with a \$60.00 monthly premium for a limited time, effective July 1, 2017. This was because your request for Aid to Continue pending the outcome of your appeal was granted.

Also on June 1, 2017, NYSOH issued a notice of enrollment confirmation, confirming your child's enrollment in an MVP CHP plan with a \$60.00 monthly premium, beginning July 1, 2017. This was also a result of your request for Aid to Continue pending the outcome of your appeal.

On September 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open through September 20, 2017 to allow you time to submit supporting documentation.

On September 19, 2017, you faxed a three-page document to NYSOH's Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2017 tax return with a tax filing status of head of household with qualifying individual. You will claim your child as a dependent on that tax return.
- 2) The application that was submitted on May 24, 2017 listed annual household income of \$66,000.00, consisting of income you earn from employment. You testified that you believe this amount was correct.
- 3) You testified that you work 36 hours a week and earn \$28.13 an hour. You testified that you also work approximately one week of "on-call" every month. You testified that, when you are on call, you receive \$8.00 an hour for overnight hours and for the weekend. You testified that you are paid this rate for fourteen hours each weekday, and twenty-four hours on Saturday and Sunday when you are on call.

- 4) You testified that you did not know if you will take any deductions on your tax return, but that you did have pre-tax deductions taken out of your paycheck. You testified that you would submit your two most recent paystubs to show your earnings and deductions.
- 5) At the time of your [REDACTED], your child was [REDACTED]
- 6) Your application states that you live in [REDACTED]
- 7) You testified that you would like to be eligible for financial assistance with the cost of your child's CHP coverage, as you are a single mother and cannot afford the monthly premium for her coverage. You testified that your child must have insurance, but that it is difficult for you to pay \$240.00 a month for coverage.
- 8) After the hearing, you faxed a three-page document to the Appeals Unit consisting of the following:
 - a. One paystub dated September 7, 2017, which shows gross earnings of \$2,575.84 and gross year-to-date earnings of \$48,376.26. The paystub also showed deductions for what appears to be health insurance premiums, flexible spending, a 401K, life insurance, and long-term disability insurance;
 - b. A 2016 Form [REDACTED] Statement, showing interest payments of \$1,984.68;
 - c. Another 2016 Form [REDACTED], showing interest payments of \$1,719.62;

Taken together, these documents are collectively marked and entered into the record as "Appellant's Exhibit One."

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

Applicable Law and Regulations

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 household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family’s household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family’s household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose household income is between 160% and 222% of the FPL, but no more than \$27.00 per month per family (NY PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose household income is between 223% and 250% of the FPL, but no more than \$54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose household income is between 301% and 350% of the FPL, but no more than \$135.00 per month per family (NY PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose household income is between 351% and 400% of the FPL, but no more than \$180.00 per family (NY PHL § 2510(9)(d)(vi)).

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 2017 FPL, which is \$16,240.00 for a two-person household (82 Federal Register 8831).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was eligible to enroll in CHP only at full cost, effective July 1, 2017.

According to the record, you expect to file your 2017 federal income tax return as head of household with qualifying individual, and to claim your one child as a dependent. Therefore, your child is in a two-person household.

In your April 24, 2017 application, you attested to an expected household income of \$66,000.00. The application also stated that your child is [REDACTED] NYSOH relied upon this information.

A child is eligible to enroll in CHP with premium assistance if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. On the date of your application, the relevant FPL was \$16,240.00 for a two-person household. Since \$66,000.00 is 406.40% of the 2017 FPL, NYSOH properly found your child to be eligible for CHP at full cost, and to be ineligible for any CHP premium assistance, based on the information you provided in your application.

Therefore, the April 4, 2017 eligibility determination properly stated that, based on the information you provided, your child was eligible to enroll in a CHP plan at full cost, effective July 1, 2017, and is AFFIRMED.

However, during the hearing, you testified that you have deductions taken out of your paystub for contributions to a retirement account, life insurance, long-term disability, and other deductions. You were asked to submit your two most recent paystubs so that your income and deductions could be reviewed. After the hearing, you submitted only one paystub. While this paystub does show several deductions, it does not indicate whether they are pre-tax or post-tax deductions; certain deductions serve to decrease the income NYSOH considers when determining your eligibility for financial assistance. Since only pre-tax deductions can be considered when determining your modified adjusted gross income, there is not enough information in your paystub to support modifying the income amount you attested to in your application at this time.

After the hearing, you also submitted two 2016 IRS Form 1098-E's, indicating that you paid over \$3,000.00 in student loan interest in 2016. However, without looking at your 2016 income tax return, it is not possible to know how much of that interest you were allowed to deduct on your taxes. If you were permitted a deduction, and expect to take a deduction again when you file your 2017 taxes, then the amount of this expected deduction (up to \$2,500) should be entered in your NYSOH application.

Therefore, your case is RETURNED to NYSOH to assist you in updating the income information in your application to more accurately reflect your income and your deductions. For NYSOH to assist you with this, you may want to have available your 2016 income tax return, as well as information from your employer regarding which of the deductions from your biweekly paycheck are pre-tax,

versus which are post-tax deductions, so that your biweekly income can be more accurately determined.

Decision

The May 25, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in updating the income information in your application so that it more accurately reflects your income and deductions, including any deduction you expect to take for student loan interest.

Effective Date of this Decision: September 26, 2017

How this Decision Affects Your Eligibility

Your child remains eligible for CHP at full cost.

Your child is not eligible for CHP premium assistance at this time.

However, based on the documentation you provided after the hearing, it appears that your biweekly income may be reduced by pre-tax deductions, and that you may be eligible to take a student loan interest deduction when you file your federal income tax return. Therefore, your case is being sent back to NYSOH to assist you in updating the income information in your application. In order to effectively do this, you may want to have information from your employer regarding which of the deductions from your paycheck are pre-tax, as well as information regarding how much of a student loan interest deduction you received on your 2016 federal income tax return.

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):

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- 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 25, 2017 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to assist you in updating the income information in your application so that it more accurately reflects your income and deductions, including any deduction you expect to take for student loan interest.

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Your child remains eligible for CHP at full cost.

Your child is not eligible for CHP premium assistance at this time.

However, based on the documentation you provided after the hearing, it appears that your biweekly income may be reduced by pre-tax deductions, and that you may be eligible to take a student loan interest deduction when you file your federal income tax return. Therefore, your case is being sent back to NYSOH to assist you in updating the income information in your application. In order to effectively do this, you may want to have information from your employer regarding which of the deductions from your paycheck are pre-tax, as well as information regarding how much of a student loan interest deduction you received on your 2016 federal income tax return.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

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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 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 bɛtumi ama wo obi a okyerɛ 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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