



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: AP000000019559

[REDACTED]

Dear [REDACTED],

On September 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 1, 2017 eligibility determination notice, the May 13, 2017 disenrollment notice, and the June 6, 2017 enrollment 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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Decision

Decision Date: October 18, 2017

NY State of Health Account ID: [REDACTED]
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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's (NYSOH) February 1, 2017 eligibility determination notice timely?

Did NYSOH properly determine your children were eligible for full price Child Health Plus plan effective March 1, 2017?

Did NYSOH properly determine your children were no longer eligible to remain enrolled in their Child Health Plus plan effective May 31, 2017?

Did NYSOH properly determine your children's enrollment in their Child Health Plus plan was effective July 1, 2017?

Procedural History

On January 5, 2017, NYSOH issued a renewal notice stating your two children qualified for coverage with Child Health Plus for a cost of \$30.00 per month each. The notice stated your children would remain in their current plan and pay \$9.00 per month until February 28, 2017. The new premium of \$30.00 per month each would start March 1, 2017. This determination was effective March 1, 2017.

On January 18, 2017, NYSOH issued an enrollment notice stating your children were enrolled in a Child Health Plus plan for a cost of \$18.00 total, effective March 1, 2017.

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On January 31, 2017 NYSOH received your updated application for financial assistance.

On February 1, 2017, NYSOH issued an eligibility determination notice stating your two children were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2017.

On February 1, 2017, NYSOH issued a disenrollment notice stating your two children's Child Health Plus plan would end effective March 1, 2017.

On February 15, 2017, NYSOH issued an eligibility determination notice stating your two children were eligible for Child Health Plus at full price, effective March 1, 2017. The notice stated they qualified for Child Health plus at full cost because the income information listed in your application was more than \$97,200.00.

On February 16, 2017, NYSOH issued an enrollment notice stating your two children were enrolled in a Child Health Plus plan for a premium cost of \$232.21 per month each, effective March 1, 2017.

On February 18, 2017, NYSOH issued an enrollment notice stating your two children were enrolled in a Child Health Plus plan for a premium cost of \$192.26 per month each, effective March 1, 2017.

On February 25, 2017, NYSOH redetermined your two children's eligibility.

On February 26, 2017, NYSOH issued an eligibility determination notice stating your two children were eligible for Child Health Plus for a premium amount of \$45.00 per month each, effective April 1, 2017.

On February 26, 2017, NYSOH issued an enrollment notice stating your two children were enrolled in a Child Health Plus plan for a cost of \$45.00 per month each, effective April 1, 2017. The notice stated they were enrolled in that plan because it was similar to the coverage they had previously.

On May 12, 2017, NYSOH received your children's updated application for financial assistance.

On May 13, 2017, NYSOH issued a notice stating the income information in your application does not match what NYSOH received from federal and state data sources. The notice requested you to provide proof of your household income, by May 27, 2017.

On May 13, 2017, NYSOH issued a disenrollment notice stating your two children's Child Health Plus plan would end, May 31, 2017.

On May 15, 2017, NYSOH received your income documentation.

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On May 15, 2017, NYSOH invalidated your income documentation.

On May 16, 2017, NYSOH issued a notice stating the income documentation it reviewed did not confirm the information in your application. The notice requested you to provide proof of your income by June 11, 2017.

On May 17, 2017, NYSOH received additional income documentation.

On May 18, 2017, NYSOH invalidated the income documentation you provided.

On May 18, 2017, NYSOH issued a notice stating the income documentation it reviewed did not confirm the information in your application. The notice requested you to provide proof of your income by June 11, 2017.

On May 31, 2017, NYSOH received additional income documentation.

On June 1, 2017, NYSOH invalidated the income documentation you provided.

On June 2, 2017, NYSOH issued a notice stating the income information in your application does not match what NYSOH received from federal and state data sources. The notice requested you provide proof of your household income, by June 26, 2017.

On June 5, 2017, NYSOH received your children's updated application for financial assistance.

On June 5, 2017, a preliminary eligibility determination was prepared with regards to the application stating your two children were conditionally eligible for Child Health Plus for a cost of \$15.00 per month each, effective July 1, 2017. You then enrolled your two children in a plan.

Also on June 5, 2017, you spoke to NYSOH's Account Review Unit and appealed the disenrollment of your children from the Child Health Plus plan for the month of June 2017, and the level of financial assistance your children were determined eligible.

On June 6, 2017, NYSOH issued an eligibility determination notice stating your two children were eligible for Child Health Plus for a cost of \$15.00 per month each, effective July 1, 2017. The notice requested you to provide proof of your income by August 4, 2017.

On June 6, 2017, NYSOH issued an enrollment notice stating your children's enrollment in a Child Health Plus plan for a cost of \$15.00 per month each was effective, July 1, 2017.

On September 6, 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 appealing your children's increased premium amount for the month of May 2017 and their disenrollment from their Child Health Plus plan effective May 31, 2017.
- 2) You updated your application online on January 31, 2017.
- 3) The application submitted on January 31, 2017 stated you would be filing your 2017 taxes as married filing jointly and would claim two dependents on that tax return.
- 4) The application submitted on January 31, 2017, stated your husband had an annual expected household income for 2017 of \$105,000.00.
- 5) You testified that you became aware that your children had been redetermined for a full price Child Health Plus plan in May 2017 when you were updating their account with NYSOH.
- 6) You testified that you did receive notice that you needed to provide proof of your household income to NYSOH, and that you continuously provided income documentation in response to the request.
- 7) Your Broker updated your children's application online on May 12, 2017. The application submitted by your Broker on May 12, 2017 indicated you had an expected annual household income of negative \$17,900.00 for 2017.
- 8) You uploaded income documentation to your NYSOH account on May 15, and 17, 2017.
- 9) The May 13, 2017 disenrollment notice terminated your children's Child Health Plus plan effective May 31, 2017.
- 10) On June 5, 2017, you re-enrolled your children in a Child Health Plus plan.

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

Applicable Law and Regulations

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

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NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee's Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions in order to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (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 2017 FPL, which is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

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), 42 CFR § 435.945).

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) 42 CFR § 435.952).

Appeal Timeliness

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)).

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Legal Analysis

The first issue under appeal is whether your appeal of NYSOH's February 1, 2017 eligibility determination notice was timely.

On February 1, 2017, NYSOH issued an eligibility determination notice stating that your two children were newly eligible to purchase a qualified health plan at full cost, effective March 1, 2017.

During your hearing, you testified you were appealing in part the increase in premium your children's Child Health Plus premium amount in the month of May 2017. The record only reflects an increase in premium amount for the month of March 2017 as indicated in the February 1, 2017 eligibility determination notice.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH. In order for an appeal of the February 1, 2017 eligibility determination notice to be timely, an appeal should have been filed by March 3, 2017. The record reflects that you filed your appeal on June 5, 2017, which is beyond the 60-day deadline.

Although your appeal was untimely on its face, you credibly testified that you were only made aware of a higher premium amount due to your health plan in May 2017.

In light of the above facts, your failure to timely submit an appeal of February 1, 2017 eligibility determination notice should not preclude the appeal.

The second issue under review is whether NYSOH properly determined your children were eligible for full price Child Health Plus plan effective March 1, 2017.

According to the application you submitted online on January 31, 2017, you expect to file a joint federal income tax return for the 2017 tax year and claim your two children as dependents. Therefore, your children are in a four-person household.

On your January 31, 2017, application, you attested to an expected household income of \$105,000.00. NYSOH relied upon this information.

A child is eligible to enroll in Child Health Plus and receive a subsidized payment if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL).

On the date of your application, the relevant FPL was \$24,600.00 for a four-person household. Since \$105,000.00 is 426.83% of the 2017 FPL the NYSOH properly found your children to be eligible for Child Health Plus with a full cost per month premium payment effective March 1, 2017.

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Therefore, the February 1, 2017 eligibility determination notice is AFFIRMED as NYSOH properly determined your children were eligible for a full cost Child Health Plus plan, effective March 1, 2017,

The third issue is whether NYSOH properly determined your children were no longer eligible to remain enrolled in their Child Health Plus plan effective May 31, 2017.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

Your Broker updated your children's application online on May 12, 2017. 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 by May 27, 2017. The information that was entered into that application stated you had a household income of - \$17,900.00 for 2017.

As a result of this updated information, your children were put into a pending Medicaid status because the income listed in your application no longer supported a determination that your children were Child Health Plus eligible.

To be eligible for Child Health Plus, a child must not be eligible for Medicaid. Since your application listed income that was below the Medicaid threshold, and NYSOH could not verify that income amount, your children were properly disenrolled from their Child Health Plus as of May 31, 2017.

Therefore, the May 13, 2017 disenrollment notice was proper and is AFFIRMED.

The fourth issue is whether NYSOH properly determined your children's enrollment in their Child Health Plus plan was effective July 1, 2017.

The record supports you contacted NYSOH on June 5, 2017, updated your application and enrolled your children into a Child Health Plus plan that day.

On June 6, 2017, NYSOH issued an eligibility determination notice stating your two children were eligible for Child Health Plus for a cost of \$15.00 per month each, effective July 1, 2017

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 you enrolled your children in a Child Health Plus plan on June 5, 2017, their Child Health Plus plan would take place the first day of month following June, that is on July 1, 2017.

Therefore, the June 6, 2017, enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective July 1, 2017, is correct and must be AFFIRMED.

Decision

The February 1, 2017 eligibility determination notice is AFFIRMED.

The May 13, 2017 disenrollment notice is AFFIRMED.

The June 10, 2017, NYSOH issued an enrollment notice is AFFIRMED.

Effective Date of this Decision: October 18, 2017

How this Decision Affects Your Eligibility

Your children were eligible for a full cost Child Health Plus plan effective March 1, 2017.

Your children were properly disenrolled from their Child Health Plus plan effective May 31, 2017.

Your children's Child Health Plus plan properly began as of July 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

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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 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
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- By fax: 1-855-900-5557

Summary

The February 1, 2017 eligibility determination notice is **AFFIRMED**.

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Your children were eligible for a full cost Child Health Plus plan effective March 1, 2017.

The May 13, 2017 disenrollment notice is AFFIRMED.

Your children were properly disenrolled from their Child Health Plus plan effective May 31, 2017.

The June 10, 2017, NYSOH issued an enrollment notice is AFFIRMED.

Your children's Child Health Plus plan properly began as of July 1, 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

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

Español (Spanish)

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

中文 (Traditional Chinese)

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

Kreyòl Ayisyen (Haitian Creole)

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

中文 (Simplified Chinese)

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

Italiano (Italian)

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

한국어 (Korean)

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

Русский (Russian)

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

العربية (Arabic)

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

বাংলা (Bengali)

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 मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerε 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.

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