



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

Notice of Decision

Decision Date: November 9, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000019891

[REDACTED]
[REDACTED],

On September 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 15, 2017 disenrollment notice and the June 22, 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 Date: November 9, 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:

Did the NY State of Health (NYSOH) properly determine your children's Child Health Plus coverage ended, effective June 30, 2017?

Did NYSOH properly determine your children's subsequent enrollment in Child Health Plus became effective no earlier than August 1, 2017?

Procedural History

On April 21, 2017, NYSOH issued a notice of eligibility determination stating all four of your children were eligible for Child Health Plus with a \$9.00 monthly premium. Your children were enrolled in a Child Health Plus plan, effective June 1, 2017.

On June 14, 2017, NYSOH received an updated application submitted on behalf of your family.

On June 15, 2017, NYSOH issued a notice stating the income information in your application did not match information received from state and federal data sources. The notice directed you to submit proof of your household income by June 29, 2017 or NYSOH would not be able to determine your children's eligibility for health insurance. That notice contained a "Documentation List" providing the types of documents required to prove different types of income. The list indicated that to prove wages an applicant must submit paystubs for the last four weeks or a letter signed and dated by the applicant's employer.

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Also on June 15, 2017, NYSOH issued a disenrollment notice stating your children's Child Health Plus coverage would end on June 30, 2017, because they were no longer eligible to enroll in the plan.

On June 16, 2017, NYSOH issued a notice stating the documentation received was insufficient to verify the income information in your application. The notice directed you to submit additional proof of your household income by September 12, 2017.

On June 20, 2017, NYSOH issued an eligibility determination notice, based on a June 19, 2017 systematic eligibility redetermination, stating your children were eligible for Child Health Plus with a \$9.00 monthly premium, effective August 1, 2017.

On June 21, 2017, you contacted NYSOH to select a Child Health Plus plan for your children.

Also on June 21, 2017, you spoke to NYSOH's Account Review Unit and appealed your children's disenrollment from their Child Health Plus plan for the month of July 2017.

On June 22, 2017, NYSOH issued an enrollment notice, based on your June 21, 2017 plan selection, confirming your children were enrolled in a Child Health Plus plan, effective August 1, 2017.

On September 19, 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) Your oldest three children were enrolled in a Child Health Plus plan, effective January 1, 2016.
- 2) Your youngest child, who was under the age [REDACTED] was determined Medicaid eligible, effective May 1, 2016, and enrolled into a Medicaid Managed Care plan.
- 3) On April 19, 2017, NYSOH received an updated application submitted on behalf of your children. That application indicated that your annual household income would be the same as the last tax year, \$62,900.00.

- 4) Based on the attested income information in the April 19, 2017 application, your youngest child was determined eligible to enroll in Child Health Plus, effective May 1, 2017. Your child was disenrolled from his Medicaid Managed Care plan, effective April 30, 2017, due to the new eligibility.
- 5) According to your account, on April 19, 2017, you selected the same Child Health Plus plan your other children were enrolled in for your youngest child and all four of your children were enrolled in that plan, effective June 1, 2017.
- 6) According to your account, in July 2017, NYSOH identified a defect in your account and backdated your youngest child's Child Health Plus coverage to May 1, 2017 so he would not have a gap in health coverage for that month.
- 7) NYSOH received an updated application submitted on behalf of your family on June 14, 2017, that application reduced your attested annual household income to \$45,801.00, indicating that your spouse would only earn \$23,568.00 for the whole year. The application indicated that you earned income from two different jobs.
- 8) You testified you updated your family's application on June 14, 2017, because your spouse had changed jobs. You testified that the income information you attested to your spouse earning in that application was just a guess.
- 9) According to your account, NYSOH was unable to verify the income information in your application and income documentation was requested to determine your children's eligibility for health insurance.
- 10) You and your spouse were determined conditionally eligible to enroll in the Essential Plan pending receipt of documentation verifying the income information in your application.
- 11) Your children were disenrolled from their Child Health Plus plan, effective June 30, 2017, on the grounds they were no longer eligible for Child Health Plus.
- 12) On June 14, 2017, NYSOH received income documentation consisting of four weekly paystubs for your spouse and one biweekly paystub for you from one of your employers. According to your account, this documentation was reviewed and invalidated by NYSOH the following day, because your income documentation did not comply with the document request.
- 13) On June 19, 2017, additional income documentation was received, including employer letters from both of your jobs, and verified the same

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day. Your spouse's annual income was increased from \$23,568.00 to \$33,257.53, based on the average gross income in the paystubs submitted. Your annual household income was recalculated by as \$55,657.33.

- 14) Based on the recalculated household income amount, your children were determined eligible for Child Health Plus with a \$9.00 monthly premium, effective August 1, 2017.
- 15) According to your account, you selected a Child Health Plus plan for your children on June 21, 2017 and coverage though that plan became effective on August 1, 2017.
- 16) Your children had a gap in health coverage for the month of July 2017.
- 17) You testified that your children do not have outstanding medical bills from the month of July 2017, but you were concerned with the amount of time you were given to submit documents to avoid a gap in your children's coverage. You testified that you want the "process" reviewed.
- 18) According to your account, at the time of your June 14, 2017 application, all four of your children were between the ages of one and nineteen.

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

Applicable Law and Regulations

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)).

Child Health Plus - Eligibility

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.

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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)).

Medicaid Eligibility for Children

A child who is under one year of age 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 223% 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).

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 the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 was \$32,960.00 for a six-person household (81 Federal Register 4036).

Child Health Plus – Effective Dates of Coverage

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 PHL § 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 properly determined your children’s Child Health Plus coverage ended effective June 30, 2017.

According to your account, all four of your children were determined eligible for Child Health Plus based on an April 19, 2017 updated application which indicated that your annual household income would be the same as the last tax year, \$62,900.00. All four of your children were enrolled into a Child Health Plus plan, effective June 1, 2017.

On June 14, 2017, NYSOH received an updated application submitted on behalf of your family. That application reduced your attested annual household income to \$45,801.00, indicating that your spouse would earn only \$23,568.00 for 2017. Subsequently, NYSOH disenrolled your children from their Child Health Plus plan, effective June 30, 2017, based on the income information in that application.

Pursuant to the above regulations, to be eligible to enroll in Child Health Plus with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid. To qualify for Medicaid based on income, a child between the ages of one and nineteen must have a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size. In the present case, the household income amount listed in your June 14, 2017 application, \$45,801.00, is 138.88% of the 2017 FPL for a six-person household. Thus, the income information you attested to in your June 14, 2017 application income qualified your children for Medicaid. Because, according to the regulations, children who are eligible for Medicaid are ineligible to enroll in Child Health Plus, NYSOH properly disenrolled your children from their Child Health Plus plan.

Therefore, the June 15, 2017 disenrollment notice stating your children’s Child Health Plus coverage ended on June 30, 2017 was correct and is **AFFIRMED**.

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It is noted that you testified you were confused as to why your children were disenrolled from their coverage following the June 14, 2017 application, while you and your spouse were not. In accordance with the regulations, income thresholds for Medicaid eligibility differs between adults and children. Children between one and nineteen will income qualify for Medicaid with a household income of 154% of the applicable FPL while adults only qualify with a lesser threshold of 138% of the FPL. As a result, a child can income qualify for Medicaid with the same household income as an adult who does not.

The second issue is whether NYSOH properly determined your children's subsequent enrollment in Child Health Plus became effective no earlier than August 1, 2017.

As discussed above, your children's Child Health Plus coverage was properly terminated effective June 30, 2017, because the children were no longer eligible to enroll in Child Health Plus based on the income information in your June 14, 2017 application. Following that application, your account confirms that NYSOH was unable to verify the income information in your application and your children were placed in a pending Medicaid status until sufficient documentation was received verifying the amount of your annual household income.

Pursuant to the 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 June 14, 2017 updated application, NYSOH issued a notice, on June 15, 2017, requesting proof of your income, by June 29, 2017, to determine your children's eligibility for health insurance.

Although NYSOH received income documentation submitted on your behalf on June 14, 2017, it is concluded that this documentation was insufficient, because there was no documentation verifying the income you attested to receiving from a second employer. The income documentation received on July 19, 2017, including employer letters from both of your jobs, was reviewed by NYSOH and verified the same day. Your spouse's attested annual income was increased by almost \$10,000 from \$23,568.00 to \$33,257.53, based on the average gross income in the paystubs submitted, and your annual household income was recalculated by NYSOH as \$55,657.33.

Based on the recalculated household income amount, your children were determined eligible for Child Health Plus with a \$9.00 monthly premium, effective August 1, 2017. According to your account, you selected a Child Health Plus plan for your children on June 21, 2017 and coverage though that plan became effective on August 1, 2017. You are appealing the gap in coverage your children had for the month of July 2017.

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Pursuant to the above cited regulations, 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.

The record establishes that you selected a Child Health Plus plan for your children on June 21, 2017, after the fifteenth day of the month. Accordingly, your children's coverage properly became effective on the first day of the second following month; that is, on August 1, 2017.

Although you testified that you were not provided with sufficient time to submit income documentation to avoid a gap in your children's coverage, the record establishes that the gap in their coverage was due to the change in your children's eligibility reported on June 14, 2017, which in turn was based on the change in income you provided. It is noted that a child's eligibility for and enrollment in Child Health Plus coverage are affected not only by the regulations for Child Health Plus, but by regulations governing other types of insurance coverage.

The evidence establishes that any alleged lack of sufficient time to submit documentation to avoid a gap in your children's health coverage was the direct result of you reporting a change in your children's eligibility just one day prior to the date in which a new enrollment must be submitted to be effective the first day of the following month. Moreover, the evidence establishes that income information reported in the June 14, 2017 application was inaccurately underrepresented, thus requiring documentary verification in the first place, which was not provided until after the fifteenth day of the month.

The Appeals Unit finds that NYSOH's actions were appropriate given the information that was submitted on your application.

Therefore, the June 22, 2017 enrollment confirmation notice stating your children were enrolled in a Child Health Plus plan, effective August 1, 2017 was correct and is AFFIRMED.

Decision

The June 15, 2017 disenrollment notice is AFFIRMED.

The June 22, 2017 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: November 9, 2017

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How this Decision Affects Your Eligibility

Your children were properly disenrolled from their Child Health Plus plan, effective June 30, 2017.

Your children's subsequent Child Health Plus enrollment was effective August 1, 2017.

Your children were not eligible to enroll in a Child Health Plus plan in July 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 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.

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If You Have Questions about this Decision (Customer Service Resources):

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- By fax: 1-855-900-5557

Summary

The June 15, 2017 disenrollment notice is AFFIRMED.

The June 22, 2017 enrollment confirmation notice is AFFIRMED.

Your children were properly disenrolled from their Child Health Plus plan, effective June 30, 2017.

Your children's subsequent Child Health Plus enrollment was effective August 1, 2017.

Your children were not eligible to enroll in a Child Health Plus plan in July 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)

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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)

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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 b e tumi ama wo obi a okyer e 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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