



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

Notice of Decision

Decision Date: November 2, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020041

[REDACTED]

Dear [REDACTED],

On September 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 22, 2017 eligibility determination, and June 28, 2017 eligibility determination notices.

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.

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 2, 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 NYSOH properly determine that your child was eligible for Medicaid, effective January 1, 2017?

Did NYSOH properly determine that your child was ineligible to enroll in Child Health Plus, effective December 31, 2016?

Procedural History

On September 8, 2016, NYSOH received your newborn child's initial application for financial assistance with her health insurance.

On September 9, 2016, NYSOH issued an eligibility determination notice stating your newborn child was eligible for Medicaid, effective September 1, 2016. The notice stated this was because her household income of \$55,020.00 was at or below the allowable income limit of \$54,189.00. The notice further stated your child was eligible for Medicaid until the end of her first birthday because her mother had Medicaid when she was born or within the three months prior.

On September 10, 2016, NYSOH issued an eligibility determination notice stating your newborn child was eligible for Child Health Plus for a cost of \$15.00 per month for a limited time, effective October 1, 2016.

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Also on September 10, 2016, NYSOH issued a disenrollment notice stating your newborn child had been disenrolled from Medicaid as of September 30, 2016.

Finally, on September 10, 2016, NYSOH issued an enrollment confirmation notice stating that your newborn child had been enrolled in a Child Health Plus plan.

On November 17, 2016, NYSOH issued an eligibility determination notice stating your newborn child was eligible for Child Health Plus with a \$15.00 per month premium, effective January 1, 2017.

Also on November 17, 2016, NYSOH issued an enrollment confirmation notice, confirming your newborn child's enrollment in a Child Health Plus plan, effective January 1, 2017.

On November 29, 2016, NYSOH issued an eligibility determination notice stating your newborn child was eligible for Medicaid, effective October 1, 2016. This notice also stated that she was no longer eligible for Child Health Plus, effective September 30, 2016. This was because your household income of \$56,307.96 is at or below the allowable income limit of \$54,189.00 for Medicaid.

Also on November 29, 2016, NYSOH issued a disenrollment notice stating that your newborn child's coverage in her Child Health Plus plan would end January 1, 2017.

On December 3, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in Child Health Plus with a \$15.00 monthly premium, effective January 1, 2017. The notice further stated that she was not eligible for Medicaid because your income of \$56,307.96 was over the allowable limit for that program.

Also on December 3, 2016, NYSOH issued an enrollment notice confirming your newborn child's enrollment in a Child Health Plus plan, effective January 1, 2017.

On June 21, 2017, NYSOH received your newborn child's application for health insurance.

On June 22, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Medicaid, effective January 1, 2017, and that she no longer qualified for Child Health Plus as of December 31, 2016. The notice stated she was eligible for Medicaid because her household income of \$56,307.96 was at or below the income limited of \$54,858.00.

On June 27, 2017, NYSOH received your newborn child's application for financial assistance. That day a preliminary eligibility determination was prepared stating your child remained eligible for Medicaid as of January 1, 2017.

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On June 27, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your newborn child was found eligible for coverage through Medicaid and not Child Health Plus.

On June 28, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Medicaid, effective January 1, 2017, and that she no longer qualified for Child Health Plus as of December 31, 2016. The notice stated she was eligible for Medicaid because her household income of \$56,307.96 was at or below the income limited of \$54,858.00.

On September 18, 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 expect to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your two children as dependents on that tax return.
- 2) The application that was submitted on September 8, 2016 listed an annual household income of \$55,020.00.
- 3) The application that was submitted on June 21, and June 27, 2017 listed an annual household income of \$56,307.96, consisting of income your husband earns from his business. You testified that this amount was correct.
- 4) When you added your child to your account with NYSOH on September 8, 2016, you were eligible for and enrolled in a Gold level qualified health plan.
- 5) You were determined eligible for Medicaid effective June 1, 2016.
- 6) Your child was born on [REDACTED]
- 7) Your application states that you will not be taking any deductions on your 2017 tax return.
- 8) Your application states that you live in Nassau County.

9) You testified that you would like your child to be eligible for Medicaid, and not Child Health Plus.

10) You testified you are seeking your child be redetermined eligible for Child Health Plus and remain enrolled in her Child Health Plus plan from January 1, 2017 to present.

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

Applicable Law and Regulations

Child Health Plus

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

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

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

The CHP premium is \$15.00 per month for a child whose family 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)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4).

On the date of your application, that was the 2016 FPL, which is \$24,300.00 for a four-person household (81 Fed. Reg. 4036.).

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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).

Medicaid for Newborns

A child born to a woman eligible for and receiving medical assistance on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance on the date of the birth and remains eligible for such assistance for a period of one year, so long as the child is a member of the woman's household and the woman remains eligible for such assistance or would remain eligible for that assistance if she were pregnant (N.Y. Soc. Serv. Law §366(4)(b)(2)).

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).

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 is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

Legal Analysis

The first issue is whether NYSOH properly determined that your newborn child was eligible for Medicaid, effective January 1, 2017.

According to the record, you expect to file a joint federal income tax return for the 2017 tax year and claim your two children as dependents. Therefore, your newborn child is in a four-person household.

Medicaid can be provided through NYSOH to a child under one year of age 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.

You added your newborn child to your NYSOH application on September 8, 2017. In that application, you attested to an annual household income of

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\$55,020.00. Since your child was under one year old and \$55,020.00 is 226.41% of the FPL for a four-person household in 2016 your child was ineligible for Medicaid on an annual income basis.

However, you were determined eligible for Medicaid effective June 1, 2016. A child born to a woman eligible for and receiving Medicaid on the date of the child's birth is eligible for Medicaid on the date of birth and remains eligible for a period of one year. Because you were determined eligible for Medicaid within three months of your child's birth, your child was determined eligible for Medicaid effective September 1, 2016, despite being ineligible on a financial basis.

However, according to the record you were eligible for and enrolled in a gold level qualified health plan as of July 1, 2016 and at the time of your child's birth in September 2016. Therefore, your child would not be subject to Medicaid on a continuous coverage basis after she was redetermined eligible for Child Health Plus as of October 1, 2017 and again January 1, 2017.

In your June 21, and 27, 2017 applications, you attested to an expected household income of \$56,307.96. The application also stated that your child was under one year old. NYSOH relied upon this information.

Since \$56,307.96 is 228.89% of the 2017 FPL for a four-person household, NYSOH improperly found your child to be eligible for Medicaid on an annual income basis.

The second issue under review is whether NYSOH properly determined that your child was ineligible to enroll in Child Health Plus.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Households with an income between 223% and 250% of the FPL are responsible for a \$15.00 per month Child Health Plus premium payment.

On the date of your applications on June 21, and 27, 2017, the relevant FPL was \$24,600.00 for a four-person household. Since \$56,307.96 is 228.89% of the 2017 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$15.00 per month premium payment.

Since the June 22, and 28, 2017 eligibility determination notices improperly stated that, based on the information you provided, your newborn child was eligible for Medicaid effective January 1, 2017, and ineligible for Child Health Plus for a cost of \$15.00 per month, effective December 31, 2016 they were incorrect and are MODIFIED to state your child was eligible for Child Health Plus for a cost of \$15.00 per month, effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure your newborn child remained eligible for and enrolled in her Child Health Plus plan effective January 1, 2017 until September 30, 2017. You will be responsible for any premium payments required by your health plan.

Decision

The June 22, and 28, 2017 eligibility determination notices are MODIFIED to state your newborn child was eligible for Child Health Plus for a cost of \$15.00 per month, effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure your newborn child is enrolled in a Child Health Plus plan effective January 1, 2017 to September 30, 2017. You will be responsible for any premium payments required by your health plan.

Effective Date of this Decision: November 2, 2017

How this Decision Affects Your Eligibility

Your child remains eligible for Child Health Plus with a \$15.00 per month premium.

Your child is not eligible for Medicaid.

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)).

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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 June 22, and 28, 2017 eligibility determination notices are MODIFIED to state your newborn child was eligible for Child Health Plus for a cost of \$15.00 per month, effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure your newborn child is enrolled in a Child Health Plus plan effective January 1, 2017 to September 30, 2017. You will be responsible for any premium payments required by your health plan.

Your child remains eligible for Child Health Plus with a \$15.00 per month premium.

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).

Your child is not eligible for Medicaid.

Legal Authority

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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 مجانًا.

বাংলা (Bengali)

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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. y&b&tumi 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.

שׂוֹדִישׁ (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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