



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

Notice of Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020166

[REDACTED]

Dear [REDACTED],

On September 26, 2017, your spouse appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's May 23, 2017 eligibility determination and plan enrollment 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 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).

This page intentionally left blank.

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

Decision

Decision Date: November 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020166

[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 children were eligible to enroll in a full price Child Health Plus plan, effective July 1, 2017?

Procedural History

On April 7, 2017, NYSOH issued an eligibility determination notice, based on your updated April 6, 2017 application, stating in relevant part that your children were conditionally eligible for coverage through Child Health Plus (CHP) with a premium of \$60.00 each, effective May 1, 2017. That notice further directed you to provide household income documentation before April 16, 2017 to confirm your children's eligibility, or their financial assistance or eligibility to enroll through NYSOH might end. You were also directed to review the attachment to that notice "Request for Additional Information – Documentation List" to identify what types of documents could be used to confirm the information on your application.

On April 8, 2017, NYSOH issued a plan enrollment notice confirming that your children were enrolled in a CHP plan with a total monthly premium of \$120.00 and that their enrollment in the plan started March 1, 2017.

On April 27, 2017, you uploaded to your NYSOH account two earnings statements for your spouse, dated 03/13/2017 and 03/31/2017, and a handwritten note from your spouse indicating that the children did not earn income and that he is the only income earner in the household.

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).

On April 28, 2017, NYSOH issued a notice stating that the documentation you provided did not confirm the income in your application. The notice directed you to provide proof of income for your children by May 16, 2017 and for your spouse by July 5, 2017. The notice stated that if you missed the due date that you might lose your insurance coverage or receive less help paying for your coverage.

No updates were made to your account by May 16, 2017.

On May 23, 2017, NYSOH issued an eligibility determination notice, based on a May 22, 2017 system update, stating in part that your children were eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective July 1, 2017. This was because federal and state data sources showed your household income was more than \$98,400.00, which was above the allowable income range for CHP subsidy for a household of your size.

Also on May 23, 2017, NYSOH issued a plan enrollment notice confirming your children were enrolled in a CHP plan with a \$437.06 per month premium, effective July 1, 2017.

On June 30, 2017, NYSOH received your updated application for health insurance. That day, a preliminary eligibility determination was prepared finding in part that your children were eligible for CHP with a \$60.00 monthly premium each, effective August 1, 2017. You re-enrolled your children into a CHP plan at that time.

Also on June 30, 2017, you spoke to NYSOH's Account Review Unit and appealed the level of your children's CHP premium for the month of July 2017.

On July 1, 2017, NYSOH issued an eligibility determination notice, based on your updated June 30, 2017 updated application, stating in relevant part, that your children were eligible to enroll in a CHP plan for a limited time with a \$60.00 monthly premium each, effective August 1, 2017. You were directed to provide income documentation before August 29, 2017 to confirm your children's eligibility, or their financial assistance or eligibility to enroll through NYSOH might end.

Also on July 1, 2017, NYSOH issued a plan enrollment notice, based on your plan selection on June 30, 2017, confirming that your children were enrolled in a CHP plan and that coverage would start on August 1, 2017, at a total monthly premium rate of \$120.00.

On September 26, 2017, your spouse, acting as your Authorized Representative, 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 spouse testified that you are appealing only your children's CHP premium amount for the month of July 2017.
- 2) According to your NYSOH account and your spouse's testimony, you expect to file your 2017 federal taxes using a tax filing status of married filing jointly and will claim your two children as dependents on that tax return.
- 3) According to your NYSOH account, you receive all your notices from NYSOH by electronic mail.
- 4) Your spouse testified that you regularly receive the electronic notices issued by NYSOH and that, after receiving an electronic notice, you then call NYSOH to take care of any necessary updates or submission of documents that might be required.
- 5) According to your NYSOH account and your spouse's testimony, your family lives in [REDACTED], New York.
- 6) Your spouse testified that you paid the \$437.06 CHP premium for July 2017.
- 7) Your spouse testified that you would like your children's premium for July 2017 changed to \$120.00 total (\$60.00 each) and to be reimbursed for the difference you paid for a full cost CHP plan that month.

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 from agency sources 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)).

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).

Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant's household income. If NYSOH is unable to verify the applicant's household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

Child Health Plus

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) (New York Public Health Law (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 Public Health Law § 2511(2)(b)).

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

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)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL (PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL (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 was \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were eligible to enroll in a full price CHP plan, effective July 1, 2017 through July 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.

The income information that was entered into your application on April 6, 2017 did not match federal and state data sources. As a result, on April 7, 2017, NYSOH issued an eligibility determination notice that stated in part, that your children were **conditionally eligible** to enroll in CHP for a cost of \$60.00 per month each, effective May 1, 2017 (emphasis added). The notice stated that additional information was needed to confirm your children's eligibility and you were required to submit proof of your household income for your children's eligibility by April 16, 2017. The notice also stated that if you did not send in this information within the required time frame, your children's eligibility would be based on the information in state and federal data sources. Further, you were directed to review the attachment to that notice “Request for Additional Information – Documentation List” to identify what types of documents could be used to confirm the information on your application.

The April 28, 2017 notice stated that the documents you submitted did not confirm the information in your application. You were directed to submit acceptable documentation of proof of income to confirm your children's eligibility by May 16, 2017. However, no documents were submitted by the May 16, 2017 deadline.

According to your NYSOH account and your spouse's testimony, you receive your notifications by electronic mail. You spouse testified that you regularly receive these electronic notices and that after receiving the notice, you would call NYSOH to take care of any necessary updates or submission of documents that might be required.

Therefore, the record reflects that NYSOH properly notified you on April 7, 2017 that your children were only conditionally eligible for CHP and that you were required to submit proof of your household income by April 16, 2017. The record further reflects that you were properly notified on April 28, 2017 that the documents you submitted did not confirm the information in your application and that you needed to submit acceptable proof of income by May 16, 2017.

You did not submit income documentation to confirm your household income by May 16, 2017, as directed. Therefore, on May 22, 2017, NYSOH redetermined your children's eligibility without the benefit of that documentation using information obtained from federal and state data sources. Based upon that information, NYSOH found that your children were eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective July 1, 2017.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Premiums are on a sliding scale, dependent upon income. Since you failed to provide documentation as directed, NYSOH was within its authority to increase your premiums based on information regarding your income it received through state and federal data sources.

Therefore, the May 23, 2017 eligibility determination notice stating that your children were eligible to enroll in a full price CHP plan, effective July 1, 2017, is correct and must be AFFIRMED.

The May 23, 2017 plan enrollment notice confirming that your children's enrollment in their CHP plan was effective July 1, 2017 at a premium of \$437.06 per month, is correct and must be AFFIRMED.

According to your NYSOH account you submitted updated applications for financial assistance for your children after the May 23, 2017 eligibility determination and plan enrollment notices were issued. This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

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).

Decision

The May 23, 2017 eligibility determination notice stating that your children were eligible to enroll in a full price CHP plan, effective July 1, 2017, is correct and must be AFFIRMED.

The May 23, 2017 plan enrollment notice is AFFIRMED.

This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

Effective Date of this Decision: November 6, 2017

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility for CHP or enrollment in a CHP plan.

Your children's CHP plan premium for the month of July 2017 is \$437.06.

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

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).

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 23, 2017 eligibility determination notice stating that your children were eligible to enroll in a full price CHP plan, effective July 1, 2017, is correct and must be AFFIRMED.

The May 23, 2017 plan enrollment notice is AFFIRMED.

This Decision does not affect any subsequent eligibility determinations made or enrollments confirmed by NYSOH, or related notices issued by NYSOH.

This decision does not change your children's eligibility for CHP or enrollment in a CHP plan.

Your children's CHP plan premium for the month of July 2017 is \$437.06.

Legal Authority

We are issuing this determination in accordance with 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).

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)

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).

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.

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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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).

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).