



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

Notice of Decision

Decision Date: October 23, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000020724

[REDACTED]

Dear [REDACTED],

On October 19, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 21, 2017 eligibility determination 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

Decision Date: October 23, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000020724



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your child was eligible for Child Health Plus, effective September 1, 2017?

Procedural History

On July 20, 2017, NYSOH received your application for health insurance.

On July 21, 2017, NYSOH issued an eligibility determination notice stating that you, your spouse and two of your three children were eligible for Medicaid, effective September 1, 2017, and your one child was eligible for Child Health Plus with a \$9.00 monthly premium, effective September 1, 2017.

On July 21, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your one child was eligible for Child Health Plus, and not eligible for Medicaid.

On July 22, 2017, NYSOH issued a plan enrollment notice confirming in relevant part that your child was enrolled in a Child Health Plus plan, with Fidelis Care, effective September 1, 2017, with a \$9.00 monthly premium. The notice further confirmed the rest of the family was enrolled in a Fidelis Care Medicaid Managed Care plan, effective September 1, 2017.

On October 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) According to your NYSOH account, you expected to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your three as a dependent on that tax return.
- 2) The application that was submitted on July 20, 2017 listed annual household income of \$30,160.00, consisting of \$580.00 per week your spouse earns from employment. You testified that this amount was correct.
- 3) At the time of the July 20, 2017 application, your child was [REDACTED]. As of the date of this Decision, he is [REDACTED].
- 4) Your application states that you will not be taking any deductions on your 2017 tax return.
- 5) Your application states that you and your family live in [REDACTED], New York.
- 6) You testified that you would like your child to be eligible for Medicaid and not Child Health Plus.

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 (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)).

Medicaid for Children

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 federal poverty level (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 \$28,780.00 for a five-person household (81 Federal Register 4036).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your child was eligible for Child Health Plus, effective September 1, 2017.

According to the record, you expect to file a joint federal income tax return for the 2017 tax year and claim your three children as dependents. Therefore, your child is in a five-person household for purposes of this analysis.

On your July 20, 2017 application, you attested to an expected household income of \$30,160.00. The application also stated that your child was [REDACTED] at the time. NYSOH relied upon this information.

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. On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Since \$30,160.00 is 104.79% of the

2017 FPL, NYSOH erred in finding your child to be eligible for Child Health Plus with a \$9.00 per month premium payment.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$30,160.00 is 104.79% of the 2017 FPL for a five-person household, NYSOH should have found your child to be eligible for Medicaid, effective September 1, 2017.

Had the proper determination been issued on July 21, 2017, you would have been able to enroll your child in the same Medicaid Managed Care family as the rest of the family.

Therefore, the July 21, 2017 eligibility determination notice stating that your [REDACTED] child is eligible for Child Health Plus was incorrect. Ordinarily, the notice would be RESCINDED in relevant part.

However, if you filed claims for medical services, treatments or prescriptions for your child that were paid by Child Health Plus as of September 1, 2017 to date, your child can be enrolled in the same Fidelis Care Medicaid Managed Care program as of November 1, 2017, that the rest of the family was enrolled in as of September 1, 2017.

If no claims for medical services, treatments or prescriptions for your child have been made and processed as of September 1, 2017 to date, at your option, your child can be enrolled in the same Fidelis Care Medicaid Managed Care plan as of September 1, 2017.

Depending on which option you select, your case is RETURNED to NYSOH to assist you by enrolling your child in the same Fidelis Care Medicaid Managed Care plan as of September 1, 2017 or November 1, 2017, and to further assist you in recouping any premiums that might be owed you.

Decision

The July 21, 2017 eligibility determination notice stating that your [REDACTED] child is eligible for Child Health Plus was incorrect.

If you filed claims for medical services, treatments or prescriptions for your child that were paid by Child Health Plus as of September 1, 2017 to date, your child can be enrolled in the same Fidelis Care Medicaid Managed Care program as of November 1, 2017, that the rest of the family was enrolled in as of September 1, 2017.

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 no claims for medical services, treatments or prescriptions for your child have been made and processed as of September 1, 2017 to date, at your option, your child can be enrolled in the same Fidelis Care Medicaid Managed Care plan as of September 1, 2017.

Depending on which option you select, your case is RETURNED to NYSOH to assist you by enrolling your child in the same Fidelis Care Medicaid Managed Care plan as of September 1, 2017 or November 1, 2017, and to further assist you in recouping any premiums that might be owed you.

Effective Date of this Decision: October 23, 2017

How this Decision Affects Your Eligibility

Your child should have been determined eligible for Medicaid.

Depending on the option you select regarding your child's enrollment start date, your case is being sent back to NYSOIH to assist you in enrolling your child and, if applicable, in recouping any premium that might be owed you.

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 July 21, 2017 eligibility determination notice stating that your [REDACTED] child is eligible for Child Health Plus was incorrect.

If you filed claims for medical services, treatments or prescriptions for your child that were paid by Child Health Plus as of September 1, 2017 to date, your child can be enrolled in the same Fidelis Care Medicaid Managed Care program as of November 1, 2017, that the rest of the family was enrolled in as of September 1, 2017.

If no claims for medical services, treatments or prescriptions for your child have been made and processed as of September 1, 2017 to date, at your option, your child can be enrolled in the same Fidelis Care Medicaid Managed Care plan as of September 1, 2017.

Depending on which option you select, your case is RETURNED to NYSOH to assist you by enrolling your child in the same Fidelis Care Medicaid Managed

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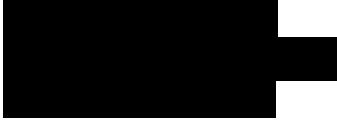
Care plan as of September 1, 2017 or November 1, 2017, and to further assist you in recouping any premiums that might be owed you.

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.

שׂוֹדֵיט (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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