



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

Notice of Decision

Decision Date: February 07, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020789



On December 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 27, 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 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

Decision Date: February 07, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000020789



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 August 1, 2017?

Procedural History

On January 26, 2017, NYSOH received your application for health insurance for your children.

On January 27, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for Child Health Plus (CHP) for a limited time with a monthly premium of \$45.00 each, effective March 1, 2017. The notice directed you to submit documentation of your household income by March 27, 2017.

Also on January 27, 2017, NYSOH issued an enrollment notice, confirming your children's enrollment in a CHP plan, beginning March 1, 2017.

On March 8, 2017, you submitted income documentation.

On March 20, 2017 and April 6, 2017, and April 14, 2017, NYSOH issued notices stating that additional information was needed to confirm your family's eligibility for health insurance. The April 6, 2017 notice directed you to submit documentation of your household income by April 26, 2017. The April 14, 2017

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notice directed you to submit documentation of your household income by May 11, 2017.

On May 3, 2017 you spoke to NYSOH's Account Review Unit and filed an appeal because you were not told what income documentation would be acceptable to determine the children's eligibility. NYSOH filed appeal number AP000000018660 on your behalf.

On May 10, 2017, you submitted income documentation.

On May 11, 2017 and May 17, 2017, NYSOH issued notices stating that additional information was needed to confirm your family's eligibility for health insurance.

On May 18, 2017 and May 22, 2017 and you submitted income documentation.

On May 19, 2017, May 23, 2017, June 6, 2017, and June 24, 2017 NYSOH issued notices stating that additional information was needed to confirm your family's eligibility for health insurance.

On June 26, 2017 you submitted income documentation.

Also on June 26, 2017, NYSOH reviewed and validated the income documentation you submitted. At that time your income in your application was increased to \$156,551.23 based on the documentation you submitted and the deductions you listed in your previous January 26, 2017 application. An application for financial assistance for health insurance was submitted on your children's behalf at this time.

On June 27, 2017, NYSOH issued an eligibility determination notice, based on the system updated June 26, 2017 application, stating that your children were eligible to enroll in CHP at full cost, effective August 1, 2017. The notice further stated that your children were not eligible for a CHP subsidy because your household income was over the allowable income limit for that program.

Also on June 27, 2017, NYSOH issued an enrollment notice, confirming your children's enrollment in their CHP plan with a monthly premium of \$209.57 each, beginning August 1, 2017.

On July 24, 2017, you spoke to NYSOH's Account Review Unit and appealed the June 27, 2017 determination insofar as your children were ineligible for a CHP subsidy. NYSOH filed appeal number AP00000002078 on your behalf.

On July 28, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP for a limited time, effective August 1, 2017.

This was because your children had been granted Aid to Continue until a decision was made on your appeal.

Also on July 28, 2017, NYSOH issued an enrollment notice confirming that your children were enrolled in a CHP plan with a \$45.00 monthly premium each and a plan enrollment start date of August 1, 2017.

On August 14, 2017, a Hearing Officer with NYSOH's Appeals Unit contacted you for a scheduled hearing. At that time, you requested an adjournment because you had just received the evidence packet in the mail and did not have time to review that packet. The Hearing Officer agreed to reschedule the hearing to September 11, 2017.

On September 11, 2017 the Hearing Officer contacted you and placed you under oath. At that time, you withdrew appeal AP000000018660. You also stated that you had filed [REDACTED] request with the NYS Department of Health. You requested a postponement of the hearing until you received the documents you had requested which you felt were material to your case. The Hearing Officer granted your request and your case was returned to NYSOH to reschedule your hearing.

The hearing was then scheduled for November 6, 2017 and the Hearing Officer contacted you on that date at the scheduled time. You were sworn in and again requested an adjournment as you were [REDACTED] with one of your children and could not proceed with the hearing. Your case was again returned to NYSOH with the direction that your case should not be scheduled until NYSOH had complied with your [REDACTED] request. Your case was then rescheduled for December 28, 2017. At that time, the Hearing Officer contacted you and you had a hearing on appeal AP000000020789.

The record was developed during the December 28, 2017 hearing and held open until January 12, 2018 to allow you time to submit supporting documentation. On January 12, 2018, the NYSOH Appeals Unit received via secure facsimile your six-page submission consisting of a one-page memorandum from you and a copy of a 2016 [REDACTED] IRS Form 1065 [REDACTED]. Those documents are collectively marked as Appellant's Exhibit # 1 and are included in the record. The record was closed at that time.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your three children's eligibility.

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- 2) You submitted an application to NYSOH for financial assistance for your children on January 26, 2017. At that time your children were [REDACTED]
- 3) You testified that you have not filed federal income tax return for the years 2014, 2015 and 2016.
- 4) You testified that pursuant to a court order, when you do file, you will file as Head of Household (with qualifying individual) and will claim your three children as dependents.
- 5) The application that was submitted on January 26, 2017 listed \$103,000.00 in income and \$27,739.00 in deductions for a household income of \$75,261.00. Based on that attested income, NYSOH determined your children eligible for CHP each with a \$45.00 monthly premium, for a limited period of time. You were required to submit proof of household income to confirm the children's eligibility.
- 6) According to your NYSOH account and your testimony, over the next several months, at various times, you submitted documentation as proof of income and this documentation was reviewed and invalidated by NYSOH.
- 7) You testified that you earn your income as a [REDACTED] and that you have [REDACTED] in the [REDACTED].
- 8) On May 10, 2017, you submitted a statement reflecting your [REDACTED] revenue and expenses for the period of January 1, 2017 to March 31, 2017 [REDACTED]. That document reflected net income for the firm as \$184,290.23 during that period.
- 9) According to your NYSOH account, on June 26, 2017 you submitted additional income documentation. On that date, NYSOH reviewed and validated the income documentation. NYSOH changed the income in your application to \$184,290.23 ($\$184,290.23 \times [REDACTED] \times$ four quarters in a year). NYSOH then deducted \$27,739.00 (S/E health insurance \$9,979.00 + Other adjustments: deductible insurance \$2,760.00 + Other Adjustments: deductible [REDACTED] \$15,000.00) to arrive at an annual household income of \$156,551.23. An updated application using this income amount was then submitted on your children's behalf.
- 10) You testified that during one of the phone calls with a NYSOH customer service representative, that you were told that your children's CHP \$45.00 monthly premium for each child should have been locked in for a 12-month period.

- 11) According to your NSYOH account and your testimony, you and your children reside in [REDACTED], New York.
- 12) You testified that you are seeking for your children to be found eligible for a Child Health Plus subsidy.

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 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 \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL, but no more than \$27.00 per month per family (NY 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, but no more than \$54.00 per month per family (NY 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, but no more than \$90.00 per month per family (NY 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, but no more than \$135.00 per month per family (NY 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, but no more than \$180.00 per family (NY PHL § 2510(9)(d)(vi)).

In an analysis of CHP 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 Federal Register 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).

Legal Analysis

The issue is whether NYSOH properly determined that your children were eligible to enroll in a full price Child Health Plus plan, effective August 1, 2017.

It is initially noted that the January 27, 2017 eligibility determination notice stated that your children were eligible for CHP for a limited time at a \$45.00 monthly premium each. The children's eligibility was contingent on your providing proof of your household income to confirm their eligibility. As such, any statement by a NYSOH customer service representative regarding a 12-month lock in of premium amount would not be an accurate statement as applied to the facts of this case.

According to the record, you have not filed income tax returns for the years 2014, 2015, and 2016. You testified that when you do file taxes, a court has ordered that you can file as Head of Household (with qualifying individual) and will claim your three children as dependents. Therefore, your children are in a four-person household.

On January 26, 2017 you applied for health insurance for your three children. The result of that application, they were determined conditionally eligible for CHP

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for a cost of \$45.00 per month each with proof of your income due by April 26, 2017. In that January 26, 2017 application you attested to household income of \$75,261.00.

According to your NYSOH account and your testimony, over the next several months at various times you submitted documentation as proof of income and this documentation was reviewed and invalidated by NYSOH. You testified that you earn your income as [REDACTED] and that you have a [REDACTED] in the [REDACTED]. On May 10, 2017, you submitted a statement reflecting your [REDACTED] revenue and expenses for the three-month period of January 1, 2017 to March 31, 2017. That document reflected net income for [REDACTED] as \$184,290.23.

On June 26, 2017 you submitted additional income documentation to NYSOH. On that date, NYSOH reviewed and validated the income documentation and adjusted your income based on the documentation you had submitted. NYSOH changed the income in your application to \$156,551.23. This was based on the three-month income and expense statement for the period of January 1, 2017 to March 31, 2017 showing [REDACTED] has a net income of \$184,290.23. Your share of [REDACTED] income is [REDACTED] and adjusted on a yearly basis, your income would be \$184,290.23. NYSOH then applied the \$27,739.00 in deductions from income that you listed on your January 26, 2017 application to arrive at a household income of \$156,551.23. An updated application using this income amount was then submitted on your children's behalf.

A child is eligible to enroll in CHP with a subsidy if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the relevant FPL. On the date of your updated June 26, 2017 application, the relevant FPL was \$24,600.00 for a four-person household. Households with an income above 400% of the FPL are not eligible to receive a CHP subsidy payment. Since \$156,551.23 (even assuming that your claimed deductions are permissible), your income is 636.38% of the 2017 FPL, and is still over the allowable limit for financial subsidies for CHP. Therefore, NYSOH properly found your children eligible to enroll only in a full price CHP plan and were ineligible for a CHP subsidy.

Since the June 27, 2017 eligibility determination notice properly stated that, based on the information you provided, your children were eligible to enroll in a full price CHP plan, it is correct and is AFFIRMED.

Decision

The June 27, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 07, 2018

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

Your children remain eligible to enroll in a full price CHP plan.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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

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- 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 27, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your children's eligibility.

Your children remain eligible to enroll in a full price CHP plan.

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 bεtumi 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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