



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

## Notice of Decision

Decision Date: November 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021053

[REDACTED]

Dear [REDACTED],

On November 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 2, 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.

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## Decision

Decision Date: November 24, 2017

NY State of Health Account ID [REDACTED]  
Appeal Identification Number: AP000000021053

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health properly determine that your middle child's enrollment in her Child Health Plus plan was effective September 1, 2017?

Did NY State of Health properly determine that your youngest child was eligible for Medicaid, effective September 1, 2017?

## Procedural History

On August 1, 2017, you updated your application for health insurance and added your middle child to that application. That day, NY State of Health (NYSOH) prepared a preliminary eligibility determination finding in part that your middle child was eligible to enroll in Child Health Plus (CHP) and that your youngest child was eligible for Medicaid, effective September 1, 2017.

Also on August 1, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility determination insofar as your middle child's CHP plan did not begin on June 1, 2017 and your youngest child was eligible for Medicaid, and not eligible for CHP.

On August 2, 2017, NYSOH issued an eligibility determination notice, consistent with the preliminary determination, stating that your middle child was eligible to enroll in CHP with a \$9.00 monthly premium and that your youngest child was eligible for Medicaid, effective September 1, 2017.

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Also on August 2, 2017, NYSOH issued a plan enrollment notice confirming that your middle child was enrolled in a CHP plan, and that her enrollment in the plan would start September 1, 2017.

On August 16, 2017, NYSOH issued a plan enrollment notice confirming that your youngest child was enrolled in a Medicaid Managed Care plan, and that her enrollment in the plan would start September 1, 2017.

On November 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to November 16, 2017 to allow you time to submit supporting documents.

As of November 16, 2017, the Appeals Unit did not receive any documents from you and none were viewable in your NYSOH account. Therefore, the record was closed that same day and this decision is based on the record as developed at the time of the hearing.

## **Findings of Fact**

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

- 1) You testified that you are appealing your middle child's CHP start date and your youngest child's Medicaid eligibility.
- 2) According to your NYSOH account and your testimony, you updated your NYSOH application for health insurance and added your middle child to that application on August 1, 2017. You enrolled your middle child into CHP plan that same day.
- 3) You testified that prior to August 2017, your middle child had health coverage directly through the health plan.
- 4) At the time of your children's August 1, 2017 application, your youngest child was under [REDACTED]
- 5) According to your NYSOH account and your testimony, you expect to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your three children as dependents on that tax return.
- 6) The application that was submitted on August 1, 2017 listed annual household income of \$60,000.00, consisting of your spouse's earnings from his employment. You are listed as unemployed with no income. At first, you testified that this amount was correct, then you testified that you weren't sure exactly what your spouse's income was.

- 7) You failed to submit proof of your spouse's income for the 2017 tax year as directed by the Hearing Officer.
- 8) According to your NYSOH account and your testimony, you and your spouse will not be taking any deductions on your 2017 tax return.
- 9) According to your NYSOH account and your testimony, your family lives in Suffolk County, New York.
- 10) You testified that you would like your middle child's CHP plan to begin as of June 1, 2017, because you have medical bills for that child.
- 11) You also testified that you would like your youngest child to be eligible for CHP, and not Medicaid, because your children's doctor does not accept Medicaid.

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

## **Applicable Law and Regulations**

### Child Health Plus Start Date

The "period of eligibility" for CHP 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 Public Health Law § 2510(6)).

"A State must specify a method for determining the effective date of eligibility for CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP 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 CHP 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).

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## Medicaid 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 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 (82 Federal Register 8831).

## 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your middle child's enrollment in her CHP plan was effective September 1, 2017.

According to your NYSOH account and your testimony, you updated your NYSOH application for health insurance and added your middle child to your application on August 1, 2017. You enrolled her into a CHP plan that same day.

The date on which a CHP 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.

Since you selected a CHP plan for your middle child on August 1, 2017, her enrollment properly took effect on the first day of the month following August 2017; that is, on September 1, 2017.

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Therefore, the August 2, 2017 plan enrollment notice stating that your middle child's enrollment in her CHP plan was effective September 1, 2017, is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly determined that your youngest child was eligible for Medicaid, effective September 1, 2017.

In the application that was submitted on August 1, 2017, you attested to an expected yearly income of \$60,000.00, and the eligibility determination relied upon that information. During the hearing, you testified that you were not sure of your spouse's annual gross income. As such, the record was kept open to November 16, 2017, to allow you time to submit proof of your spouse's income. You did not submit this proof and, therefore, this decision must be based on the evidence in the record, which reflects an annual expected income of \$60,000.00 for 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, for purposes of this analysis, your youngest child is in a five-person household.

On your August 1, 2017 application, your child was under [REDACTED].

Medicaid can be provided through NYSOH to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. There is nothing in the record to indicate that your youngest child would not qualify based on non-financial requirements such that only the financial requirements need be addressed. Since \$60,000.00 is 208.48% of the 2017 FPL for a five-person household, NYSOH properly found your youngest child to be eligible for Medicaid.

You testified that you want your child enrolled in health coverage through CHP and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through CHP.

Accordingly, the August 2, 2017 eligibility determination notice stating that your youngest child was eligible for Medicaid is correct and must be AFFIRMED.

## **Decision**

The August 2, 2017 plan enrollment notice is AFFIRMED.

The August 2, 2017 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** November 24, 2017

## **How this Decision Affects Your Eligibility**

This decision does not change your children's eligibility.

The effective date of your middle child's CHP plan is September 1, 2017.

Your youngest child was properly determined eligible for Medicaid as of September 1, 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

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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 August 2, 2017 plan enrollment notice is AFFIRMED.

The August 2, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your children's eligibility.

The effective date of your middle child's CHP plan is September 1, 2017.

Your youngest child was properly determined eligible for Medicaid as of September 1, 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)

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&etumi ama wo obi a okyer& 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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