



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

## Notice of Decision

Decision Date: October 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021257

[REDACTED]

Dear [REDACTED],

On October 23, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 13, 2017 eligibility determination.

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.

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DEPARTMENT OF HEALTH  
P.O. Box 11729  
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## Decision

Decision Date: October 30, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000021257

[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 Child Health Plus (CHP) at full cost, effective August 1, 2017?

## Procedural History

On May 8, 2017, NYSOH received your updated application for health insurance.

On May 9, 2017, NYSOH issued a notice stating that your children were eligible, for a limited time, to enroll in a CHP plan with a monthly premium of \$9.00 each, effective June 1, 2017. The notice further directed you to submit documentation to confirm your household income by July 7, 2017.

Also on May 9, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children's enrollment in a CHP plan, beginning June 1, 2017.

No income documentation was received by NYSOH.

On July 12, 2017, NYSOH redetermined your children's eligibility.

On July 13, 2017, NYSOH issued a notice of eligibility determination, stating that your children were eligible to enroll in CHP at full cost, or to enroll in a child-only qualified health plan at full cost, effective August 1, 2017. The notice further stated that your children were not eligible for financial assistance with the cost of

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their CHP premiums because information from state and federal data sources showed that your household income was more than \$115,120.00.

Also on July 13, 2017, NYSOH issued a notice of enrollment confirmation, confirming that your children were enrolled in a CHP plan with a monthly premium of \$199.56 each, effective August 1, 2017.

On August 7, 2017, you updated your NYSOH account and indicated that no one in your household needed health insurance.

On August 8, 2017, NYSOH issued a discontinuance notice stating that your children were not qualified to enroll in coverage through NYSOH, effective September 1, 2017, because you no longer wanted them to receive coverage through NYSOH.

Also on August 8, 2017, NYSOH issued a disenrollment notice, stating that your children were disenrolled from their CHP plan, effective August 31, 2017, because they were no longer eligible to remain enrolled in coverage through NYSOH.

Also on August 8, 2017, you spoke to NYSOH's Account Review Unit and appealed, insofar as your children were not eligible for CHP premium assistance in the month of August 2017.

On October 23, 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 applied for coverage for your children through NYSOH on May 8, 2017.
- 2) You testified that you completed your application by phone with a NYSOH agent.
- 3) You testified that, at the time of your application, you were working, but your spouse was not.
- 4) You testified that you informed the NYSOH agent you spoke with that your spouse's income could change at any time, as he is an independent contractor.

- 5) You testified that you were not informed that you needed to provide any income documentation at that time, but were told you would have to provide documentation of your spouse's income when, or if, he started working.
- 6) You testified, and your NYSOH account confirms, that you were enrolled to receive email alerts regarding notices issued in your NYSOH account.
- 7) You testified that you did receive some emails from NYSOH, but that, any time you tried to log in and go to your inbox, you were taken to a page where there was no personal information or inbox, and you were unable to see any notices.
- 8) You testified that you believe maybe there was something on your computer that was blocking access to your NYSOH account.
- 9) You testified that the first time you were able to log into your NYSOH account was the day of the hearing (October 23, 2017).
- 10) You testified that you never called NYSOH about the fact that you could not log into your account because you did not think there was anything wrong, until you received a bill for your children's full CHP premiums in late July 2017.
- 11) You testified that you did not receive the May 9, 2017 eligibility determination stating that your children's eligibility was for a limited time only, and that you needed to provide documentation of your household income by July 7, 2017.
- 12) You testified that you and your family moved to Florida on [REDACTED], and that you had intended to cancel your children's health insurance at that time, but you forgot to do so, and did not remember until you received the bill for the full price premiums in late July 2017.

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

## **Applicable Law and Regulations**

### 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) (New York Public Health Law (NY PHL) § 2511(2)(a)(iii)).

To be eligible for CHP, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY PHL § 2511(2)(a)-(e)).

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)).

### CHP Premiums

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 is \$28,780.00 for a five-person household (82 Federal Register 8831).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children were eligible to enroll in CHP at full cost, effective August 1, 2017.

You filed an application for financial assistance with the cost of health insurance on May 8, 2017. As a result, your children were found eligible to enroll in CHP with a \$9.00 monthly premium. You were notified of this eligibility in a notice dated May 9, 2017. The notice also informed you that your children’s eligibility was for a limited time only, and that you needed to submit documentation of your household income by July 7, 2017.

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.

NYSOH could not verify the income information listed in your May 8, 2017 application, so you were asked to provide documentation of your household income, and you were given sixty days from the date of your application to do so. You testified that the NYSOH agent you spoke with did not inform you that you needed to provide income documentation, and that you were only told to provide documentation if your spouse started working again. Nevertheless, NYSOH issued a written notice of eligibility determination on May 9, 2017, informing you that your children’s eligibility was for a limited time only, and that you needed to provide income documentation by July 7, 2017.

According to the record, you were enrolled to receive email notifications from NYSOH to alert you to notices issued in your NYSOH account. You testified that you received some emails, but that you were never able to get into your NYSOH

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account. You testified that you think your computer might have been blocking your access but that, in any event, the first time you were able to log into your NYSOH inbox was on October 23, 2017.

However, you also testified that you never contacted NYSOH to follow up regarding the fact that you could not log into your NYSOH account to review any notices that were issued to you, and that the first time you contacted NYSOH was when you received the bill for the full August CHP premiums in late July 2017.

Therefore, it is determined that you were, or should have been, aware that NYSOH requested documentation to confirm your children's eligibility for CHP premium assistance. When NYSOH did not receive this documentation by July 7, 2017, NYSOH redetermined your children's eligibility, and they were correctly found eligible for CHP at full cost, based on the income information available to NYSOH from state and federal data sources.

Additionally, you testified that you moved out of NY State on [REDACTED]. Had you notified NYSOH of this move during the month of July 2017, your children's eligibility for CHP would have ended as of July 31, 2017, because NY State residence is a requirement for CHP eligibility. However, since you did not notify NYSOH that you had moved until you updated your account on August 7, 2017, your children's eligibility and enrollment did not end until August 31, 2017. As such, you remain responsible for their premiums for the month of August 2017.

Therefore, the July 13, 2017 eligibility determination stating that your children were eligible to enroll in a CHP plan at full cost, effective August 1, 2017, was correct and is AFFIRMED.

## **Decision**

The July 13, 2017 eligibility determination notice is [REDACTED].

**Effective Date of this Decision:** October 30, 2017

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

Your children were eligible for CHP at full cost in the month of August 2017.

Your children were not eligible for CHP premium assistance in the month of August 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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The July 13, 2017 eligibility determination notice is [REDACTED].

Your children were eligible for CHP at full cost in the month of August 2017.

Your children were not eligible for CHP premium assistance in the month of August 2017.

## **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 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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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.

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