



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

Notice of Decision

Decision Date: November 15, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000021431

[REDACTED]

[REDACTED]

On October 27, 2017 you appeared by telephone at a hearing on your appeal of NY State of Health's August 9, 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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Decision

Decision Date: November 15, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000021431

[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 child was eligible for Medicaid, effective August 1, 2017?

Procedural History

On August 3, 2017, NYSOH received your application for health insurance.

On August 4, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to determine your child's eligibility for financial assistance. This notice directed you to submit proof of your household's income by August 18, 2017 as well as proof of your child's citizenship status and social security number by November 1, 2017.

On August 4, 2017, NYSOH received your application for health insurance.

On August 5, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to determine your child's eligibility for financial assistance. This notice directed you to submit proof of your household's income by August 18, 2017 as well as proof of your child's citizenship status and social security number by November 1, 2017.

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On August 7, 2017, you uploaded income documentation to your NYSOH account.

On August 8, 2017, NYSOH reviewed the income documentation you submitted, determined that this was sufficient proof of your household income, recalculated your household's income based on this documentation, and submitted an application on your behalf based on this recalculated household income.

On August 9, 2017, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible for Medicaid, effective August 1, 2017. This notice directed you to produce proof of your child's citizenship status and social security number by November 1, 2017.

On August 14, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your child was eligible for Medicaid, and not eligible for Child Health Plus.

On September 5, 2017, you uploaded your child's birth certificate and social security card to your NYSOH account.

Also on September 5, 2017, NYSOH verified your child's birth certificate and social security card.

On September 6, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Medicaid, effective September 1, 2017.

On October 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open for fourteen days, to allow you to submit supporting documents.

As of November 11, 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 expected to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your one child as a dependent on that tax return.

- 2) The application that was submitted on your behalf on August 8, 2017 listed annual household income of \$31,172.34, consisting of \$1,027.00 you earn from your employment and \$45,645.34 your spouse earns from her employment, less \$15,000.00 in deductions. You testified that this amount was correct.
- 3) Your child was born on [REDACTED]
- 4) Your application states that you will be taking \$1,500.00 in deductions for moving expenses and \$14,000.00 for tuition. You testified that this is correct.
- 5) Your application states, and you confirmed, that you live in [REDACTED].
- 6) You testified that you are seeking your child to be eligible for Child Health Plus, and not Medicaid.

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 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).

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)).

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).

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 is \$20,420.00 for a three-person household (82 Fed. Reg. 8831).

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)).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

IRS rules allow a maximum deduction of \$4,000.00 in tuition and fees if a taxpayer's yearly income does not exceed \$160,000.00 when the tax payer files their taxes as married filing jointly (26 USC §222(b)(2)(B); Internal Revenue Service (IRS) Publication 970 (2016)).

Legal Analysis

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

According to the record, you expect to file a joint federal income tax return for the 2017 tax year and claim your one child as a dependent. Therefore, your child is in a three-person household.

The application that was submitted on your behalf on August 8, 2017 listed annual household income of \$46,672.34, consisting of \$1,027.00 you earn from your employment and \$45,645.34 your spouse earns from her employment. The application also stated that you plan on taking a deduction of \$1,500.00 for moving expenses and \$14,000.00 for tuition and fees on your 2017 tax return.

Based on the information provided, NYSOH calculated your annual household income to be \$31,172.34.

However, NYSOH bases its eligibility determination on modified adjusted gross income as defined in the federal tax code. The Internal Revenue Service rules allow a tax payer to deduct from their adjusted gross income tuition and fees for higher education in the amount of \$4,000.00 if the tax payer's yearly income does not exceed \$160,000.00 when the tax payer files their taxes as married filing jointly.

Since the highest amount you can deduct on your tax return for tuition and fees paid to an institution of higher education, based on IRS regulation, is \$4,000.00, your child's eligibility should have been determined using a modified adjusted gross income of \$41,172.34 (\$1,027.00 you earn from employment, \$45,645.34 your spouse earns from employment, less \$1,500.00 in deductions for moving expenses and \$4,000.00 in deductions for tuition and fees).

Medicaid can be provided through NYSOH to children under the age of one who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 223% of the FPL for the applicable family size. Since \$41,172.34 is 201.63% of the 2017 FPL for a three-person household, NYSOH properly found your child to be eligible for Medicaid.

You testified that you want your child enrolled in health coverage through Child Health Plus 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 Child Health Plus.

Accordingly, the August 9, 2017 notice of eligibility determination that your child was eligible for Medicaid is correct and is AFFIRMED.

Decision

The August 9, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 15, 2017

How this Decision Affects Your Eligibility

Your child remains eligible for Medicaid.

If You Disagree with this Decision (Appeal Rights)

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 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
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The August 9, 2017 eligibility determination notice is AFFIRMED.

Your child remains eligible for Medicaid.

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&btumi 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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