



STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: November 6, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000021740

[REDACTED]

Dear [REDACTED],

On October 30, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's July 8, 2017 notice of eligibility determination and July 11, 2017 enrollment 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
PO 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 Date: November 6, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000021740



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 to enroll in a Child Health Plus plan, effective August 1, 2017?

Procedural History

On March 23, 2017, NYSOH issued an eligibility determination notice, stating that your entire family, which you had previously reported as consisting of yourself and your two children, remained eligible for Medicaid, effective March 1, 2017. Also on March 23, 2017, NYSOH issued an enrollment notice, confirming that the members of your family remained enrolled in your Medicaid Managed Care plan.

On April 7, 2017, NYSOH again issued an eligibility determination notice, this time stating that your entire family, which again relied on a family consisting of yourself and your two children, remained eligible for Medicaid, effective April 1, 2017. On April 8, 2017, NYSOH issued an enrollment notice, confirming that the members of your family remained enrolled in your Medicaid Managed Care plan.

On May 4, 2017, NYSOH issued a notice, stating that it was time for you to renew your insurance coverage, but that NYSOH did not have enough information to determine your ongoing eligibility. The notice directed you to update your account by June 15, 2017, or the financial assistance you were receiving might end.

On June 18, 2017, NYSOH issued a notice, stating that it had redetermined your family's eligibility through NYSOH, based on "information we recently received," and that you and your two children were no longer eligible for coverage through NYSOH, because you had not responded to the renewal notice and had not completed your renewal within the required time frame.

Also on June 18, 2017, NYSOH issued an enrollment notice, stating that you and your children's coverage would end on June 30, 2017.

On June 23, 2017, NYSOH received your application for health insurance; at that time, your spouse was added to your account and you indicated that your tax filing status was married filing jointly, for the first time.

On June 24, 2017, NYSOH issued a notice, stating that more information was needed regarding your household income, before it could determine your family's eligibility. The notice directed you to provide income documentation before July 8, 2017.

On or about July 3, 2017, income documentation was received by NYSOH.

On July 8, 2017, NYSOH issued an eligibility determination notice stating that your two children were eligible to enroll in a Child Health Plus plan, effective August 1, 2017. You and your spouse were eligible to enroll in an Essential Plan, also effective August 1, 2017.

On July 11, 2017, NYSOH issued an enrollment notice, confirming your children's enrollment in a Child Health Plus plan, with no monthly premium, effective August 1, 2017. You and your spouse were enrolled in the Essential Plan, with a \$20.00 monthly premium.

On August 23, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your children were found eligible for Child Health Plus coverage, effective no earlier than August 1, 2017.

On October 30, 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 expected to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your two children as dependents on that tax return.

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- 2) The application that was submitted to NYSOH on June 23, 2017 listed annual household income of \$20,800.00, consisting solely of income earned by your spouse. (Previous applications indicated that you were single, and your spouse was not included on those applications.)
- 3) Your spouse testified that the income in the application was correct, and that it was incorrect of NYSOH to have added the income from the 2016 tax return to the \$20,800.00 listed on the application, as this resulted in an amount double of what your expected annual income was. Your spouse testified he has only one source of income.
- 4) Your spouse estimated he would earn about the same amount as last year, perhaps \$500.00 per week in 2017, prior to deductions.
- 5) Your application states that you will not be taking any deductions on your 2017 tax return.
- 6) Your application states that you live in Kings County.
- 7) At the time of your June 23, 2017 application, your two children were [REDACTED] and [REDACTED].
- 8) On or about July 3, 2017, NYSOH received an unsigned copy of your joint tax return for 2016. It listed an adjusted gross income, \$17,745.00, that NYSOH has confirmed through federal and/or state databases. The gross sales amount listed on the Schedule C (Profit or Loss From Business) was \$20,000.00.
- 9) On July 7, 2017, NYSOH redetermined your eligibility using household annual expected income of \$38,545.00. You and your spouse were subsequently found eligible for the Essential Plan, and your children were found eligible for Child Health Plus coverage, effective August 1, 2017.
- 10) You testified that you have outstanding medical bills from the gap in your children's coverage in July 2017.

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 it must attempt to resolve the inconsistency, including by giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f) 42 CFR § 435.952).

Household Income

NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) 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)).

"Adjusted gross income" is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, deductions that are attributable to a trade or business may be deductions from a taxpayer's adjusted gross income (26 USC § 62 (a)(1)).

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

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household MAGI that is at or below 138% of the FPL for the applicable family size (42 CFR §

435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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 MAGI that falls at or below 223% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

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 MAGI that falls at or below 154% of the 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 \$24,600.00 for a four-person household (82 Federal Register 8831).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children were eligible for coverage through Child Health Plus, effective no earlier than 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 two children as dependents. Therefore, you, your spouse, and your children are in a four-person household.

On your June 23, 2017 application, you attested to an expected household income of \$20,800.00. In response, NYSOH found that income verification was needed, and requested income documentation.

The income documentation received, which was apparently accepted by NYSOH as evidenced by NYSOH's subsequent actions, was an unsigned copy of your

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tax return. It listed an adjusted gross income, \$17,745.00, that NYSOH has subsequently confirmed through federal and/or state databases. The gross sales amount listed on the Schedule C (Profit or Loss From Business) was \$20,000.00.

When you submitted your June 23, 2017 application, you included an annual expected household income of \$20,800.00, which is closer to the gross sales amount listed on your 2016 tax return, than the adjusted gross income of \$17,745.00. It appears that in re-determining your eligibility, instead of relying on an adjusted gross income of \$17,745.00, NYSOH added that amount to your estimation of \$20,800.00, resulting in annual earnings of \$38,545.00. The Appeals Unit finds that there is no evidence whatsoever in the record to support a finding of annual expected earnings of \$38,545.00. Therefore, your family's eligibility should be redetermined based on a correct income.

Given the documentary evidence and your application, the Appeals Unit finds that your eligibility for financial assistance through NYSOH should be determined using \$20,800.00, the level of income listed on your June 23, 2017 application, which is supported by your testimony and the evidence regarding your 2016 tax return.

Medicaid can be provided through NYSOH to children under the age of one who meet the non-financial requirements and have a household MAGI that is at or below 223% of the FPL for the applicable family size. Such coverage can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household MAGI that is at or below 154% of the FPL for the applicable family size.

Because \$20,800.00 is 84.55% of the 2017 FPL for a four-person household, NYSOH should have found both your children eligible for Medicaid, instead of Child Health Plus. Because eligibility for Medicaid fee-for-service begins on the first day of the month an individual is found eligible, this coverage should have become effective for your entire family on July 1, 2017, because your application became complete and NYSOH determined your eligibility in July 2017. Additionally, had you been permitted to select a Medicaid Managed Care plan on July 10, 2017, the day you instead selected coverage through the Essential Plan and Child Health Plus, your coverage through your Medicaid Managed Care plan would have been effective August 1, 2017.

In other words, your children were entitled to be covered under Medicaid fee-for-service for August 2017.

Accordingly, the July 8, 2017 notice of eligibility determination and July 11, 2017 enrollment notice stating that your two children were eligible to enroll in a Child Health Plus plan, effective August 1, 2017, and that you and your spouse were eligible to enroll in an Essential Plan, also effective August 1, 2017, and that your

family's several enrollments also became effective August 1, 2017, were incorrect.

Therefore, the July 8, 2017 notice of eligibility determination is MODIFIED to reflect that your children are entitled to Medicaid fee-for-service coverage for July 2017.

Additionally, you may elect to change your family's eligibility to Medicaid fee-for-service effective July 1, 2017, and to enroll in a Medicaid Managed Care plan, effective as early as August 1, 2017.

However, because you, your spouse, and your children have been covered under different plans since the mistaken eligibility determination issued on July 8, 2017, plans which may have covered treatment or providers that would not be covered by Medicaid, you may wish not to retroactively change the coverage that has been in place since August 1, 2017.

In any event, your children will be covered by Medicaid fee-for-service for July 2017.

Your additional options are:

- 1) To retroactively cancel your children's Child Health Plus coverage back to August 1, 2017, and select a Medicaid Managed Care plan to become effective August 1, 2017; or
- 2) To leave your children's coverage through Child Health Plus effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap in coverage.

You have similar choices regarding coverage for you and your spouse:

- 1) Although you did not appeal the loss of coverage for you and your spouse for July 2017, you may elect to obtain Medicaid fee-for-service for July 2017 for you and your spouse; and
- 2) To retroactively cancel Essential Plan coverage for you and your spouse back to August 1, 2017, and select a Medicaid Managed Care plan to become effective August 1, 2017; or
- 3) To leave coverage through the Essential Plan effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap in coverage.

Your case is RETURNED to NYSOH to assist you in enrolling your children in Medicaid fee-for-service for July 2017, and in determining what other options listed above you wish to pursue.

Decision

The July 8, 2017 eligibility determination notice is MODIFIED to reflect that your children are eligible for and enrolled in Medicaid fee-for-service for July 2017, and the July 8, 2017 eligibility determination and July 11, 2017 enrollment notices are returned to NYSOH to assist you in the appropriate changes.

Your case is RETURNED to NYSOH to assist you in enrolling your children in Medicaid fee-for-service for July 2017, and in determining what other options listed above you wish to pursue.

Effective Date of this Decision: November 6, 2017

How this Decision Affects Your Eligibility

Your children are eligible for Medicaid fee-for-service coverage for July 2017.

Your case is RETURNED to NYSOH to assist you in determining whether you will:

- 1) Retroactively cancel your children's Child Health Plus coverage back to August 1, 2017, and select a Medicaid Managed Care plan for them to become effective August 1, 2017; or
- 2) Leave your children's coverage through Child Health Plus effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap between the two coverages.
- 3) Obtain Medicaid fee-for-service for July 2017 for you and your spouse;
- 4) Retroactively cancel Essential Plan coverage for you and your spouse back to August 1, 2017, and select a Medicaid Managed Care plan to become effective August 1, 2017; and/or
- 5) Leave coverage through the Essential Plan for you and your spouse effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap in coverage.

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):

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- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
PO Box 11729
Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The July 8, 2017 eligibility determination notice is MODIFIED to reflect that your children are eligible for and enrolled in Medicaid fee-for-service for July 2017, and the July 8, 2017 eligibility determination and July 11, 2017 enrollment notices are returned to NYSOH to assist you in the appropriate changes.

Your children are eligible for Medicaid fee-for-service coverage for July 2017.

Your case is returned to NYSOH to assist you in determining whether you will:

- 6) Retroactively cancel your children's Child Health Plus coverage back to August 1, 2017, and select a Medicaid Managed Care plan for them to become effective August 1, 2017; or
- 7) Leave your children's coverage through Child Health Plus effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap between the two coverages.
- 8) Obtain Medicaid fee-for-service for July 2017 for you and your spouse;
- 9) Retroactively cancel Essential Plan coverage for you and your spouse back to August 1, 2017, and select a Medicaid Managed Care plan to become effective August 1, 2017; and/or
- 10) Leave coverage through the Essential Plan for you and your spouse effective August 1, 2017, but to change enrollment to a Medicaid Managed Care plan from this point forward, without any gap in coverage.

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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