



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

Notice of Decision

Decision Date: November 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021925

[REDACTED]

[REDACTED]

On November 2, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 14, 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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Decision

Decision Date: November 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000021925



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 Child Health Plus (CHP) plan at full cost, effective September 1, 2017?

Procedural History

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

On June 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 \$45.00 each, effective July 1, 2017. The notice further directed you to submit documentation to confirm your household income by August 7, 2017.

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

You uploaded documentation to your NYSOH account on July 17, 2017.

On August 13, 2017, NYSOH redetermined your children's eligibility.

On August 14, 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 September 1, 2017. The notice

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further stated that your children were not eligible for financial assistance with the cost of their CHP premiums because information from state and federal data sources showed that your household income was more than \$98,400.00.

Also on August 14, 2017, NYSOH issued a notice of enrollment confirmation, confirming that your children were enrolled in a CHP plan with a monthly premium of \$260.76 each, effective September 1, 2017.

On August 29, 2017, you updated your NYSOH application. That day, NYSOH prepared a preliminary eligibility determination stating that your children were eligible to enroll in CHP with a \$45.00 monthly premium, each, effective October 1, 2017.

Also on August 29, 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 September 2017.

On August 30, 2017, NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in CHP with a \$45.00 monthly premium each, effective October 1, 2017.

Also on August 30, 2017, NYSOH issued a notice of enrollment confirmation, confirming that your children were enrolled in a CHP plan with a \$45.00 monthly premium each, beginning October 1, 2017.

On November 7, 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) Your NYSOH account reflects that you updated your application on June 8, 2017. You testified that you completed this application update over the phone.
- 2) You testified that you were told that you needed to provide income documentation to NYSOH, and so you uploaded documentation on July 17, 2017 with the assistance of an agent from Empire Blue Cross/Blue Shield.
- 3) Your NYSOH account confirms that documentation was uploaded to your account on July 17, 2017.

- 4) In the “Notes” tab of your NYSOH account, there is a note entered on July 18, 2017 stating “Invalid proof of income. ██████ submitted a valid letter from an employer. ██████ submitted a letter from an employer that did not include gross pay amount and frequency of pay. Required documentation is a letter from an employer signed and dated include gross pay amount and frequency of pay dated within 30 days of 6/8/2017 or more recent. Refer to the Acceptable Documents Fact Sheet for additional documents. The clock open date is 6/8/2017. No Due date extension necessary.”
- 5) No notices were issued to you regarding the documentation you submitted.
- 6) You testified that, when you did not hear anything from NYSOH, you thought everything was fine.
- 7) You testified that you and your family were away on vacation in August and, when you returned, you had received a notice from NYSOH stating that your children were not eligible for financial assistance with their CHP premium.
- 8) Your NYSOH account confirms that a notice was sent to you dated August 14, 2017 stating that your children were newly eligible to enroll in CHP at full cost because information from state and federal data sources showed that your household income was above the income limit for CHP premium assistance.
- 9) You testified that you called NYSOH to ask what happened, and that you were told that the income documentation you had submitted was not sufficient, so your children lost their financial assistance.
- 10) You testified that you asked the NYSOH representative when NYSOH had sent a notice stating that your documentation was insufficient, and the NYSOH agent acknowledged that no such notice was issued to you.
- 11) You testified that you updated your account that same day, and that your children’s financial assistance was reinstated.
- 12) Your NYSOH account reflects that you updated your application on August 29, 2017, and that your children were found eligible for CHP in a notice dated August 30, 2017.
- 13) The August 30, 2017 notice did not request income documentation, and your children’s eligibility was not conditional or limited in any way.
- 14) You testified that you did not make any changes to your income when you updated your application on August 29, 2017, and your NYSOH account

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confirms that the income information in the August 29, 2017 application was identical to the income information entered in the June 8, 2017 application.

15) You testified that, if NYSOH had notified you that the documentation you submitted was not sufficient, you could have corrected the problem and provided additional documentation to resolve the issue in time to avoid the loss of your children's financial assistance.

16) You testified that you paid your children's full CHP premiums for the month of September 2017, and that you are looking for reimbursement at this point for the extra amount that you had to pay because they lost their premium assistance.

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.

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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 \$24,600.00 for a four-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 September 1, 2017.

You filed an application for financial assistance with the cost of health insurance on June 8, 2017. As a result, your children were found eligible to enroll in CHP with a \$45.00 monthly premium. You were notified of this eligibility in a notice

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dated June 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 August 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 June 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, when you updated your application on June 8, 2017, you were informed that you needed to provide documentation of your household income. You testified that you uploaded documentation of you and your spouse's income to your NYSOH account on July 17, 2017 with the assistance of an agent from Empire Blue Cross/Blue Shield. Your NYSOH account confirms that income documentation was uploaded to your account on July 17, 2017.

Your NYSOH account also indicates that the income information you submitted was reviewed on July 18, 2017 and found to be insufficient because NYSOH could not determine your spouses expected annual income based on the information provided in the letter from his employer. Although NYSOH entered a note to this effect in your NYSOH account, NYSOH did not issue any notice informing you that the income documentation you submitted was not sufficient. You testified that, after you provided the documentation, you did not hear anything further from NYSOH, so you thought everything was fine.

Your NYSOH account reflects that NYSOH redetermined your children's eligibility on August 13, 2017, and determined that your children were eligible to enroll in CHP at full cost, effective September 1, 2017, based on income information from state and federal data sources. NYSOH issued a notice of this eligibility determination on August 14, 2017, along with an enrollment confirmation notice showing that your children were now enrolled in their CHP plan with a monthly premium of \$260.76 each, as of September 1, 2017.

You testified that you were away on vacation when this eligibility determination arrived, and you called NYSOH as soon as you saw it at the end of August. You testified that you asked the NYSOH agent why your children were losing their financial assistance, and that you were told that it was because the documentation you submitted was not sufficient. You testified that you asked the NYSOH agent when NYSOH had ever informed you of the problem with your

documentation, and the NYSOH agent had to acknowledge that you were not notified until the August 14, 2017 eligibility determination.

Your NYSOH account reflects that you then updated your application on August 29, 2017, and your children were found eligible for CHP with no limitation, and no request for income documentation. You testified that you paid their full cost premium for September 2017, but would like to be reimbursed for the amount you had to pay in excess of the \$45.00 each you would have paid if their premium assistance had not been removed. You testified that, if NYSOH had notified you that the documentation was insufficient, you could have corrected the issue in time to prevent the loss of financial assistance.

The credible evidence supports your contention. NYSOH determined that your documentation was insufficient on July 18, 2017. Had NYSOH notified you in writing of this insufficiency, as they should have done, you would have received the notice in time to provide additional documentation and prevent your children from losing their financial assistance. However, since no notice was sent, even if you had received the August 14, 2017 eligibility determination as soon as it was issued and acted immediately, it would not have been in enough time to prevent the loss of your children's CHP premium assistance for September 2017.

Moreover, it is noted that, when you updated your application on August 29, 2017, you made no changes to your income information, yet your children were found fully eligible for CHP with a monthly premium of \$45.00 each, with no additional documentation required.

For these reasons, the August 14, 2017 eligibility determination is **RESCINDED**.

The August 14, 2017 enrollment confirmation notice is **MODIFIED** to state that your children were enrolled in their CHP plan with a \$45.00 monthly premium each, beginning July 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your children's CHP premium assistance for the month of September 2017, so that their total premium for that month is \$45.00, each.

Decision

The August 14, 2017 eligibility determination notice is **RESCINDED**.

The August 14, 2017 enrollment confirmation notice is **MODIFIED** to state that your children were enrolled in their CHP plan with a \$45.00 monthly premium each, beginning July 1, 2017.

Your case is RETURNED to NYSOH to reinstate your children's CHP premium assistance for the month of September 2017, so that their total premium for that month is \$45.00 each.

Effective Date of this Decision: November 13, 2017

How this Decision Affects Your Eligibility

Your children should not have lost their CHP premium assistance in the month of September 2017.

Your case is being sent back to NYSOH to reinstate your children's CHP premium assistance for the month of September 2017, such that their CHP premium for that month is \$45.00 each.

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

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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):

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- 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 14, 2017 eligibility determination notice is **RESCINDED**.

The August 14, 2017 enrollment confirmation notice is **MODIFIED** to state that your children were enrolled in their CHP plan with a \$45.00 monthly premium each, beginning July 1, 2017.

Your case is **RETURNED** to NYSOH to reinstate your children's CHP premium assistance for the month of September 2017, so that their total premium for that month is \$45.00 each.

Your children should not have lost their CHP premium assistance in the month of September 2017.

Your case is being sent back to NYSOH to reinstate your children's CHP premium assistance for the month of September 2017, such that their CHP premium for that month is \$45.00 each.

Legal Authority

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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 مجانًا.

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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।

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 महत्त्वपूर्ण 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 εho nkyerεkyerεmu a, ye srε wo, frε 1-855-355-5777. yεbεtumi 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.