



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

Notice of Decision

Decision Date: December 21, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000022440

[REDACTED]

Dear [REDACTED]

On November 29, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 6, 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 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: December 21, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000022440

[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 children's enrollment in their Child Health Plus plans was effective October 1, 2017?

Did NY State of Health properly determine that your youngest child [REDACTED] was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective October 1, 2017?

Procedural History

On July 1, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating in part that your two oldest children ([REDACTED] and [REDACTED]) were eligible for Child Health Plus and would remain in their plan and pay \$9.00 per month until December 31, 2017; and that your youngest child ([REDACTED]) was eligible to purchase a qualified health plan at full cost through NYSOH. This eligibility was effective as of August 1, 2017.

Also on July 1, 2017, NYSOH issued a plan disenrollment notice stating that your children were no longer eligible to enroll in their Child Health Plus plans and that their current Child Health Plus plan coverage would end as of July 31, 2017.

Between July 13, 2017 and August 23, 2017, NYSOH received fourteen applications for financial assistance with health insurance. These applications listed the same information; including the same household income amount.

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Between July 14, 2017 and August 24, 2017, NYSOH issued ten eligibility determination notices stating in part that your two oldest children were eligible to enroll in Child Health Plus plans with \$9.00 monthly premiums, for a limited time, and that your youngest child was eligible to purchase a qualified health plan at full cost through NYSOH.

On September 5, 2017, NYSOH received your two applications for health insurance.

On September 6, 2017, NYSOH issued an eligibility determination notice stating, in part, that your two oldest children were eligible to enroll in Child Health Plus plans with \$9.00 monthly premiums, effective October 1, 2016. This notice also stated that your youngest child was eligible to enroll in a Child Health Plus plan with a \$30.00 monthly premium, effective October 1, 2017.

Also on September 6, 2017, NYSOH issued a plan enrollment notice stating that your two oldest children were enrolled in Child Health Plus plans with \$9.00 monthly premiums, and your youngest child was enrolled in a Child Health Plus plan with a \$30.00 monthly premium, effective October 1, 2017.

On September 14, 2017, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as your children's Child Health Plus coverage was effective October 1, 2017, and not September 1, 2017, and that your youngest child was not eligible for more premium assistance with her Child Health Plus plan.

On November 29, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you clarified what you were looking for through the appeal. You testified that you were seeking a start date of September 1, 2017 for your oldest child's () Child Health Plus plan coverage, and seeking a greater amount of premium subsidy for your youngest child's (), effective October 1, 2017. The record was developed during the hearing and the record was held open to allow the Hearing Officer to listen to any of the available telephone records from NYSOH's Call Center between July 13, 2017 and September 5, 2017.

The Hearing Officer listened to all available telephone recordings from July 18, 2017 and September 5, 2017; after which the record was closed.

Findings of Fact

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

- 1) You testified that you received a notice that your children were disenrolled from their health insurance in July 2017, and as a result, you attempted to update your NYSOH account.
- 2) According to your NYSOH account and your testimony, you submitted fourteen applications between July 13, 2017 and August 23, 2017.
- 3) You testified that you completed these applications by yourself online.
- 4) You testified that, every time you attempted to complete an application and enroll your children into a plan, you would get an error screen and would not be able to enroll your children into a plan.
- 5) According to your NYSOH account, you placed two phone calls to NYSOH on July 18, 2017 and, during those phone calls, explained that the online application would not allow you to finish.
- 6) A Hearing Officer reviewed the telephone calls that were placed on July 18, 2017, and determined that:
 - a. You were calling because you were having issues completing your application;
 - b. The NYSOH representative attempted to assist you in walking you through the application over the phone until you reached an error screen and you were unable to continue with the application; and,
 - c. Once you reached the error screen, the NYSOH representative informed you that he was going to transfer you to application support and this is when the call cut out.
- 7) You testified that, had you been able to enroll your children into Child Health Plus plans at any time over the telephone, you would have selected a plan for enrollment then.
- 8) The telephone record indicates that the next available telephone record from NYSOH's Call Center was on September 5, 2017.
- 9) A Hearing Officer reviewed the telephone recording from September 5, 2017, and determined that:
 - a. You stated that you were calling because you had been having issues with your application, in that, you were unable to complete the application;
 - b. You stated that you were informed by application support that you should just keep trying to complete the application and that it should eventually fix itself, but it has not;

- c. The NYSOH representative was able to pull up your account on her end, and was able to see that you had already completed multiple applications; and,
 - d. The NYSOH representative was able to enroll your children into Child Health Plus plans that day, over the telephone, before disconnecting the call.
- 10) The record indicates that your children were enrolled into Child Health Plus plans, effective October 1, 2017.
- 11) You testified that you are seeking to have your oldest child's Child Health Plus plan to begin as of September 1, 2017 because he has unpaid medical bills from that month.
- 12) You testified that you expect to file your 2017 tax return with a tax filing status of married filing jointly. You and your spouse will claim your three children as dependents on that tax return.
- 13) The updated application that was submitted on your behalf, on September 5, 2017, listed an expected annual household income of \$74,977.76, consisting of \$47,500.44 your spouse earns in income from his employment and \$27,477.32 you earn in income from your employment. You testified that these amounts were correct.
- 14) At the time of all of your applications, your children were under the age of eighteen years old and over the age of one.
- 15) Your application states that you will not be taking any deductions on your 2017 tax return.
- 16) You testified that you would like your youngest child to be found eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, like your other children.

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

Applicable Law and Regulations

Child Health Plus

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

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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) (NY 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 PHL § 2511(2)(b)).

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 \$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)).

In an analysis of Child Health Plus 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).

The State of New York has provided that a child’s period of eligibility for Child Health Plus 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).

Legal Analysis

The first issue under review is whether NYSOH properly determine that your children’s enrollment in their Child Health Plus plans were effective October 1, 2017.

You testified, and the record reflects, that you attempted to update your NYSOH account multiple times between July 13, 2017 and September 5, 2017. The record further reflects that you attempted to complete the applications by yourself online. However, you testified that you were unable to complete the applications

because an error screen appeared each time as you attempted to complete the application.

You testified that you contacted NYSOH for assistance multiple times from July 13, 2017 through September 5, 2017, but NYSOH informed you to keep attempting to complete the application and it would eventually fix itself. After a review of the telephone report associated with your account, there were only three available telephone records from NYSOH's Call Center. Two records were available from July 18, 2017, and one telephone record from September 5, 2017.

The Hearing Officer listened to the telephone recordings that were available from July 18, 2017, and determined that you called because you were having issues with your application. The NYSOH representative attempted to assist you in completing your application. During the telephone call, you stated that you were unable to proceed through the application because you received an error screen. The NYSOH representative stated that he was transferring you to application support in order to assist you with the problem, which is where the recording ends. At no time during this call did the NYSOH representative ask you if you wanted to complete an application over the telephone, nor did he offer to assist you in selecting a plan for your children's enrollment over the phone. Further, it was not until the September 5, 2017 telephone recording that the NYSOH representative informed you that she could either complete the application over the telephone for you, or select your children's Child Health Plus plans for enrollment over the telephone if you kept having difficulty with your application.

Ordinarily, the date on which a Child Health Plus 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.

You testified that you would have enrolled your children into Child Health Plus plans over the telephone if the NYSOH representative assisted you at any time prior to September 5, 2017. The record indicates that on September 5, 2017, your oldest children were found eligible to enroll in Child Health Plus plans with \$9.00 monthly premiums and your youngest child was found eligible to enroll in a Child Health Plus plan with a \$30.00 monthly premium, effective October 1, 2017.

Had a NYSOH representative assisted you in completing an application and enrolling your children into a plan any time prior to August 15, 2017, their Child Health Plus plans would have gone into effect on September 1, 2017. Based on the credible evidence of the record, had you been able to complete your application successfully and enroll your children into Child Health Plus plans on

July 18, 2017, their Child Health Plus plans would have gone into effect the first day of second month following July 2017; that is, September 1, 2017.

Therefore, the September 6, 2017 plan enrollment notice, stating that your oldest children's enrollment in their Child Health Plus plans with \$9.00 monthly premiums and your youngest child's enrollment in her Child Health Plus plan with a \$30.00 monthly premium is effective October 1, 2017, is MODIFIED to state that your children's enrollment is effective September 1, 2017.

Your case is RETURNED to NYSOH to effectuate the change to your account as noted above, and to notify you accordingly.

The second issue under review is whether NYSOH properly determined that your youngest child () was eligible to enroll in Child Health Plus with a \$30.00 per month premium, effective October 1, 2017.

According to the record, you and your spouse expect to file your 2017 federal tax return as married filing jointly and will claim your three children as dependents on that tax return. Therefore, your youngest child is in a five -person household.

In your September 5, 2017 application, NYSOH updated your household expected income to \$74,977.76, consisting of \$47,500.44 your spouse earns in income from his employment and \$27,477.32 you earn in income from your employment, which you testified was correct. NYSOH relied upon this information.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Households with an income between 251% and 300% of the FPL are responsible for a \$30.00 per month Child Health Plus premium payment.

On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Since \$74,977.76 is 260.52% of the 2017 FPL, NYSOH properly found your youngest child () to be eligible for Child Health Plus with a \$30.00 per month premium payment.

Since the September 6, 2017 eligibility determination properly stated in part that, based on the information you provided, your youngest child () was eligible for Child Health Plus with a \$30.00 per month premium, it is correct, in part, and is AFFIRMED as it relates to your youngest child's premium amount.

However, the September 6, 2017 eligibility determination is MODIFIED, in part, to reflect that your children were eligible to enroll into their Child Health Plus plans with their respective premium amounts, effective September 1, 2017, and not October 1, 2017, for the reasons noted above.

During the hearing, you testified that you were unsure as to why your youngest child had a different premium amount than your other children. Your other two children were determined eligible to enroll in Child Health Plus plans with \$9.00 monthly premiums based on your November 16, 2016 application; which was effective January 1, 2017. NYSOH instituted a Child Health Plus “lock-in” period where a child who is newly eligible for that program will be locked into their initial premium payment for 12 months from the date of their eligibility. Therefore, even though your other children’s eligibility was redetermined with a higher annual income on September 5, 2017, they remained eligible for the original premium amount until the end of their lock in period.

Decision

The September 6, 2017 plan enrollment notice, stating that your oldest children’s enrollment in their Child Health Plus plans with \$9.00 monthly premiums and your youngest child’s enrollment in her Child Health Plus plan with a \$30.00 monthly premium was effective October 1, 2017, is MODIFIED to state that your children’s enrollment is effective September 1, 2017.

Your case is RETURNED to NYSOH to effectuate the changes to your account as noted above, and to notify you accordingly.

The September 6, 2017 eligibility determination notice is AFFIRMED, in part, as it pertains to your youngest child’s premium amount for her Child Health Plus plan.

The September 6, 2017 eligibility determination is MODIFIED, in part, to reflect that your children’s eligibility to enroll in their Child Health Plus plans with their respective premium payment amounts is effective September 1, 2017, and not October 1, 2017.

This Decision has no effect on any subsequent eligibility determinations made by NYSOH.

Effective Date of this Decision: December 21, 2017

How this Decision Affects Your Eligibility

This Decision does not affect your children’s current eligibility.

The effective dates of your oldest children’s Child Health Plus plans with \$9.00 monthly premiums are September 1, 2017.

NYSOH properly determine that your youngest child () was eligible to enroll in a Child Health Plus plan with a \$30.00 monthly premium.

The effective date of your youngest child's Child Health Plus plan with \$30.00 monthly premium is September 1, 2017.

Your case is being sent back to NYSOH to change the start date of your oldest children's Child Health Plus plans with \$9.00 monthly premiums and your youngest child's Child Health Plus plan with a \$30.00 monthly premium from October 1, 2017 to September 1, 2017. NYSOH will notify you once this change has been completed.

It is your responsibility to pay the September 2017 monthly premiums directly to your children's Child Health Plus plans for coverage to start 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 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).

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
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- By fax: 1-855-900-5557

Summary

The September 6, 2017 plan enrollment notice, stating that your oldest children's enrollment in their Child Health Plus plans with \$9.00 monthly premiums and your youngest child's enrollment in her Child Health Plus plan with a \$30.00 monthly premium was effective October 1, 2017, is MODIFIED to state that your children's enrollment is effective September 1, 2017.

The effective dates of your oldest children's Child Health Plus plans with \$9.00 monthly premiums are September 1, 2017.

The effective date of your youngest child's Child Health Plus plan with \$30.00 monthly premium is September 1, 2017.

Your case is being sent back to NYSOH to change the start date of your oldest children's Child Health Plus plans with \$9.00 monthly premiums and your youngest child's Child Health Plus plan with a \$30.00 monthly premium from October 1, 2017 to September 1, 2017. NYSOH will notify you once this change has been completed.

The September 6, 2017 eligibility determination notice is AFFIRMED, in part, as it pertains to your youngest child's premium amount for her Child Health Plus plan.

NYSOH properly determine that your youngest child () was eligible to enroll in a Child Health Plus plan with a \$30.00 monthly premium.

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).

The September 6, 2017 eligibility determination is MODIFIED, in part, to reflect that your children's eligibility to enroll in their Child Health Plus plans with their respective premium payment amounts is effective September 1, 2017, and not October 1, 2017.

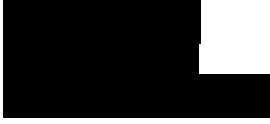
It is your responsibility to pay the September 2017 monthly premiums directly to your children's Child Health Plus plans for coverage to start as of September 1, 2017.

This Decision does not affect your children's current eligibility.

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 مجاناً.

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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