



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

Notice of Decision

Decision Date: February 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022552

[REDACTED]

[REDACTED]

On January 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 9, 2017 and the September 30, 2017 eligibility determination 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
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 and the NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545(b).

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: February 15, 2018

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000022552

[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 your child was not eligible for a Child Health Plus subsidy for the month of October 2017?

Procedural History

On June 30, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus (CHP) with a \$15.00 monthly premium, for a limited time, effective August 1, 2017. The notice directed you to provide proof of your household income by August 28, 2017 to confirm your child's eligibility or he might lose his insurance or receive less help paying for his coverage. That notice contained a "Documentation List" providing the types of documents accepted to prove various kinds of income. The list indicated that to prove wages, an applicant must submit paycheck stubs for the last four weeks or a signed and dated employer letter.

Also on June 30, 2017, NYSOH issued an enrollment notice confirming your child was enrolled in a CHP plan with a \$15.00 monthly premium, effective August 1, 2017.

On September 8, 2017, NYSOH systematically redetermined your child's eligibility for financial assistance with health insurance.

On September 9, 2017, NYSOH issued an eligibility determination notice stating your child was eligible to enroll in a full price CHP plan, effective October 1,

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2017. The notice indicated that your child was not eligible for a CHP subsidy, because state and federal data sources indicated your household income was over the allowable income limit for that program.

Also on September 9, 2017, NYSOH issued an enrollment notice confirming your child was enrolled in a full cost Child Health Plus plan with a \$199.56 monthly premium, effective October 1, 2017.

On September 19, 2017, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your child. That day, a preliminary eligibility determination was prepared finding your child eligible for Child Health Plus with a \$9.00 monthly premium, effective November 1, 2017.

Also on September 19, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your child was not eligible for a CHP subsidy for the month of October 2017.

On September 22, 2017, NYSOH issued an enrollment notice confirming your child was enrolled in a CHP plan with a \$9.00 monthly premium, effective November 1, 2017.

On September 30, 2017, NYSOH issued an eligibility determination notice, based on your September 19, 2017 updated application, stating your child was eligible for CHP with a \$9.00 monthly premium, effective November 1, 2017.

On January 9, 2018, you had a telephone hearing with the aid of [REDACTED] interpreter number [REDACTED] from [REDACTED] with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

Findings of Fact

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

- 1) An updated application was submitted on behalf of your child on June 29, 2017 listing your annual income as \$ 36,979.81.
- 2) According to your account, NYSOH was unable to verify the income information listed in your application and your child was determined conditionally eligible for CHP with a \$15.00 monthly premium, pending receipt of income documentation to confirm your child's eligibility.
- 3) You testified that you are not sure if you received the June 30, 2017 eligibility determination notice directing you to submit proof of your income by August 28, 2017.

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- 4) You testified, and your account confirms, that you receive your correspondence from NYSOH by regular mail.
- 5) You confirmed the address listed on the June 30, 2017 eligibility determination notice was your correct mailing address and there is no record of any notice issued to you by NYSOH being returned as undeliverable.
- 6) The only record of income documentation received by NYSOH was one biweekly paystubs dated April 6, 2017 uploaded to your account on April 17, 2017.
- 7) There is no record of any additional income documentation received by NYSOH in response to the June 30, 2017 documentation request.
- 8) On September 8, 2017, NYSOH systematically redetermined your child's eligibility for financial assistance, based on income information received from state and federal data sources, and found your child ineligible for a CHP subsidy on the grounds the household income exceeded the limit to qualify for financial assistance.
- 9) Your child's CHP subsidy was revoked, effective October 1, 2017.
- 10) An updated application was submitted on behalf of your child on September 19, 2017. That application indicated that your annual income was the same as the previous tax year, \$32,956.84.
- 11) According to your account, NYSOH was able to verify the income information listed in the September 19, 2017 application and your child was determined fully eligible for CHP with a \$9.00 monthly premium, effective November 1, 2017.
- 12) Your child's CHP subsidy was reinstated, effective November 1, 2017.
- 13) You appealed insofar as your child was not eligible for a CHP subsidy for the month of October 2017.
- 14) You testified that your child's health plan billed you for the full amount of the monthly premium for October 2017. You testified that you did not pay the premium for October 2017, because you could not afford the full premium amount.
- 15) According to your account, on November 14, 2017, your child's health plan initiated termination of his coverage due to non-payment of the premiums. His coverage ended November 1, 2017.

- 16) Your account confirms that your child was reenrolled into CHP plan with a \$9.00 monthly premium, effective January 1, 2017.
- 17) You testified you are not seeking reinstatement in your child's coverage for the months of November and December 2017.
- 18) You testified you are only seeking reinstatement of the subsidy for your child's CHP coverage for the month of October 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)). 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)).

Child Health Plus - Eligibility

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) (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)).

Child Health Plus – Effective Dates

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the CHP premiums are not timely paid or the child no longer

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resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

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 issue is whether NYSOH properly determined your child was not eligible for a CHP subsidy for the month of October 2017.

An updated application for financial assistance was submitted on your child's behalf on June 29, 2017 listing your annual income as \$ 36,979.81. According to your account, NYSOH was unable to verify the income information listed in your application.

Pursuant to the regulations, 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. 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. In the notice issued by NYSOH on June 30, 2017, you were advised that NYSOH could not verify the income information in your application and you were directed to submit proof of your income by August 28, 2017 to confirm your child's eligibility or he might lose his insurance or receive less help paying for his coverage.

Although you testified that you are not sure if you received the June 30, 2017 eligibility determination notice directing you to submit proof of your income by August 28, 2017, you confirmed the address listed on the June 30, 2017 notice was your correct mailing address and there is no record of any notice issued to you by NYSOH being returned as undeliverable. Thus, the evidence establishes that NYSOH provided you with adequate notice of a discrepancy in your

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application and that documentation of your income was required by August 28, 2017 to confirm your child's eligibility to receive financial assistance with his health insurance.

The only record of income documentation received by NYSOH was one biweekly paystubs dated April 6, 2017 uploaded to your account on April 17, 2017. Since this document was not in response to the June 30, 2017 documentation request and failed to comply with any such request, NYSOH properly systematically redetermined your child's eligibility on September 8, 2017 based on income information received from state and federal data sources. Since that income information purportedly indicated that your household income exceeded the income limit to qualify your child for financial assistance with health insurance, your child was determined eligible to enroll in a full cost qualified health plan, and his CHP subsidy was revoked, effective October 1, 2017.

Since, as discussed above, the evidence establishes that you failed to timely submit income documentation to confirm your child's eligibility for financial assistance, the evidence is insufficient to overcome NYSOH determination that data sources indicated your income exceeded the limit to qualify your child for financial assistance.

Thus, the September 9, 2017 eligibility determination stating your child was eligible for a full cost CHP plan and ineligible for financial assistance, effective October 1, 2017, must be AFFIRMED.

Your account confirms that your application was updated on September 19, 2017 and your child was found eligible for CHP with a \$9.00 monthly premium, effective November 1, 2017. Your child's CHP subsidy was reinstated November 1, 2017; however, you testified that you are seeking reinstatement of the subsidy for the month of October 2017.

Pursuant to the regulations, a child's period of eligibility for CHP 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 fifteenth of the month; applications received after the fifteenth day of the month will be processed for the first day of the second following month.

Since the evidence establishes that you did not update the application until September 19, 2017, after the fifteenth day of the month, the resulting eligibility could not become effective until the first day of the second following month; that is on November 1, 2017.

Therefore, the September 30, 2017 eligibility determination notice, to the extent it states that your child's CHP subsidy was effective November 1, 2017, is correct and is AFFIRMED.

Decision

The September 9, 2017 eligibility determination notice is **AFFIRMED**.

The September 30, 2017 eligibility determination notice, to the extent it states that your child's CHP subsidy was effective November 1, 2017, is **AFFIRMED**.

Effective Date of this Decision: February 15, 2018

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

Your child's CHP subsidy was revoked for the month of October 2017 and not reinstated until November 1, 2017.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your appeal was decided, the 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)).

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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
PO Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The September 9, 2017 eligibility determination notice is **AFFIRMED**.

The September 30, 2017 eligibility determination notice, to the extent it states that your child's CHP subsidy was effective November 1, 2017, is **AFFIRMED**.

This decision does not change your child's eligibility.

Your child's CHP subsidy was revoked for the month of October 2017 and not reinstated until November 1, 2017.

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).

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 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 okyerE 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.