



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

### Notice of Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022882



On November 28, 2017, your authorized representative appeared on your behalf by telephone at a hearing on your appeal of NY State of Health's April 18, 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 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.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: December 12, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000022882



## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly redetermine your children's premium assistance based on state and federal data sources, effective June 1, 2017?

## Procedural History

On February 10, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your children's February 9, 2017 renewal application, stating that your children were eligible to enroll in a Child Health Plus (CHP) plan for a limited time with a premium of \$15.00 per month each, effective March 1, 2017. The notice further directed you to provide documentation confirming your income by April 10, 2017.

On February 16, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan with a monthly premium of \$15.00, effective March 1, 2017.

On April 18, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in CHP plan with a monthly premium of \$60.00 per month each, effective June 1, 2017. This was because NYSOH did not receive the income documentation needed to verify the income listed in your children's application such that their eligibility was based on information from federal and state data sources.

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Also on April 18, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan with a monthly premium of \$60.00 per month each, effective March 1, 2017.

On June 27, 2017, NYSOH issued an eligibility determination notice, based on your children's June 26, 2017 updated application, stating that your children were eligible to enroll in a CHP Plan with a monthly premium of \$15.00, effective August 1, 2017.

Also on June 27, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan with a monthly premium of \$15.00, effective March 1, 2017.

On September 27, 2017, you spoke to NYSOH's Account Review Unit and appealed the CHP premium assistance for the months of June 2017 and July 2017.

On November 28, 2017, your authorized representative appeared on your behalf at a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to December 13, 2017, to allow you time to submit supporting documents.

On November 29, 2017, you and your authorized representative submitted your children's CHP billing statements, along with proof of payment of those bills. These documents were made part of the record as "Appellant's Exhibit A." The record closed that day.

## **Findings of Fact**

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

- 1) Your authorized representative testified, and your application indicates, that all times relevant, you received all your notices from NYSOH via email.
- 2) Your authorized representative testified that she completed an online application on February 9, 2017. She further testified that you did not receive any notice stating that your children's eligibility was only conditional and that you needed to provide documentation of your household's income. Nor did you receive an electronic alert notifying you that such notice was in your NYSOH account.
- 3) According to your NYSOH account, your children's application was run on April 17, 2017 and they were found eligible for a higher CHP

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premium of \$60.00 each based on federal and state data sources, effective June 1, 2017.

- 4) Your authorized representative testified that you did not know your children's insurance premium had increased until you received a notice from your health plan in June 2017 stating that your children would be terminated unless you paid an outstanding balance to the health plan, which reflected said premium increase.
- 5) Your authorized representative testified that the health plan backdated the higher premium to March 1, 2017 and you were left with a \$500.00 bill from the health plan.
- 6) The documentation you and your authorized representative submitted shows that you were billed \$120.00 per month each for June 2017 and July 2017's premium. It also shows that you made \$390.00 in premium payments between June 29, 2017 and November 29, 2017 (see Appellants Exhibit A, pp. 3 – 11).
- 7) According to your children's NYSOH Enrollment History Tabs, as of the date of this Decision, your children are enrolled in a CHP plan with a monthly premium of \$15.00 per month as of March 1, 2017.
- 8) Your authorized representative testified that you are seeking your children's lower CHP premium to be backdated so that you may get a refund of the premium you paid for the months you paid the \$60.00 premium each.

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

## **Applicable Law and Regulations**

### Child Health Plus Verification Process

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 (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)).

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).

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If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### Child Health Plus

The “period of eligibility” for CHP 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 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 CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP 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 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 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).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual’s NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

## Legal Analysis

The issue under review is whether NYSOH properly redetermined your children's premium assistance based on information from federal and state data sources, effective June 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in the CHP plan, NYSOH must request income data from federal data sources in order to verify an individual's income attestation.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and provide a period of two months from the date notice is received to resolve the inconsistency.

In the eligibility determination issued on February 10, 2017, you were advised that your children were eligible for CHP for a limited time, and that you needed to confirm your household's income before April 10, 2017.

The record reflects that NYSOH did not receive the requested income documentation before the deadline.

However, your authorized representative testified and your application indicates that, at all times relevant, you received your alerts regarding notices from NYSOH electronically. Your authorized representative credibly testified that you did not receive an electronic alert regarding the eligibility determination notice, which advised you that your children's eligibility was only conditional and that you needed to submit documentation to confirm your household income. There is also no evidence in your account documenting that any email alert was sent to you regarding the need to submit documentation, or that it failed. Nor is there any evidence that the notice was sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the proper notice that you needed to submit documentation of your income to confirm your children's eligibility for CHP.

Since you were not made aware of and did not receive proper notice that there was an inconsistency in your children's NYSOH account, the April 18, 2017 eligibility determination notice stating that your children were eligible to enroll in CHP plan with a premium of \$60.00 per month each because you failed to submit documentation is **RESCINDED**.

As such, it follows that the April 18, 2017 plan enrollment notice confirming your children's enrollment in a CHP plan with a premium of \$60.00 per month is also **RESCINDED**.

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 record reflects that on June 27, 2017, based on your June 26, 2017 updated application, your children were redetermined eligible to enroll in CHP with a \$15.00 monthly premium each, as state in the June 27, 2017 eligibility determination notice. The corresponding June 27, 2017 plan enrollment notice states that the \$15.00 monthly premium is effective March 1, 2017. This notice suggests NYSOH has already resolved the premium issue for your children's CHP plan for the months of June 2017 and July 2017, and no further action is needed with regard to modifying the premium amount on the plan enrollment notice.

However, during the hearing, your authorized representative testified that your health plan was billing your children's higher premium of \$60.00 for the months of June 2017 and July 2017. As such, your case is RETURNED to Plan Management to contact your children's CHP plan to reconcile the premium billing for the months of June 2017 and July 2017 and, if applicable, the payments you have made so that you will be properly billed or credited, based on your premium payments to date.

## **Decision**

The April 18, 2017 eligibility redetermination and plan enrollment notices are RESCINDED.

Your case is RETURNED to Plan Management to contact your children's CHP plan to reconcile the premium billing for the months of June 2017 and July 2017 and, if applicable, the payments you have made so that you will be properly billed or credited, based on your premium payments to date. You will be notified accordingly.

**Effective Date of this Decision:** December 12, 2017

## **How this Decision Affects Your Eligibility**

Your children's CHP plan premium increase was improper because you were not properly notified of the need to submit income documentation to confirm your children's eligibility.

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

Your case is being sent back to Plan Management to investigate the premium billing issue for the months of June 2017 and July 2017. You will be notified of the outcome.

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 Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services 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 U.S. Department of Health and Human Services. 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 wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

## **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The April 18, 2017 eligibility redetermination and plan enrollment notices are **RESCINDED**.

Your case is **RETURNED** to Plan Management to contact your children's CHP plan to reconcile the premium billing for the months of June 2017 and July 2017 and, if applicable, the payments you have made so that you will be properly billed

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or credited, based on your premium payments to date. You will be notified accordingly.

Your children's CHP plan premium increase was improper because you were not properly notified of the need to submit income documentation to confirm your children's eligibility.

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

Your case is being sent back to Plan Management to investigate the premium billing issue for the months of June 2017 and July 2017. You will be notified of the outcome.

### **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**



## **Getting Help in a Language Other than English**

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### **Español (Spanish)**

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### **中文 (Traditional Chinese)**

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### **Kreyòl Ayisyen (Haitian Creole)**

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### **中文 (Simplified Chinese)**

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

### **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.

## **Twí (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&Etumi 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.