



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

## Notice of Decision

Decision Date: January 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023481

[REDACTED]

Dear [REDACTED]

On December 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 6, 2017 eligibility determination notice and October 4, 2017 enrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
PO Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the 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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STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
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## Decision

Decision Date: January 4, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000023481



## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was your appeal of NY State of Health's (NYSOH) July 6, 2017 eligibility determination notice timely?

Did NYSOH properly determine that your child's enrollment in her Child Health Plus plan with a monthly premium of \$45.00 was effective November 1, 2017?

## Procedural History

On May 15, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On May 16, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for Child Health Plus (CHP) with a \$30.00 monthly premium, for a limited time, effective June 1, 2017. You were requested to provide income documentation for your child by June 30, 2017 to confirm her eligibility.

Also on May 16, 2017, NYSOH issued an enrollment notice confirming your selection of a CHP as of May 15, 2017 for your child's enrollment, with such coverage beginning June 1, 2017.

On July 5, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

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On July 6, 2017, NYSOH issued an eligibility determination notice stating that your child was found eligible for CHP at full cost, effective August 1, 2017. The notice stated that this was because federal and state data sources show that your household income was more than \$81,680.00, which is more than the allowable income range for the CHP program based on your household size.

On July 24, 2017, NYSOH received a (1) letter issued by you as [REDACTED], reflecting that you did not receive a salary during 2017, (2) a letter from your accountant, dated July 21, 2017, confirming that both you and your spouse were not paid any salary from your businesses, [REDACTED], and (3) checking account records for [REDACTED] between January 1, 2017 and July 1, 2017, and (4) Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return form submitted to NYS Dept. of Taxation and Finance for [REDACTED]

On July 26, 2017, NYSOH issued a notice confirming receipt of the income documentation you submitted to resolve the inconsistency in your application; however, the determination you provided was found not sufficient to resolve this inconsistency. You were requested to provide additional income documentation so that NYSOH could issue an eligibility determination notice.

On September 22, 2017, NYSOH received e-file confirmations that you filed your 2016 federal and New York State tax returns, and that your federal adjusted gross income was \$62,054.00.

Also on September 22, 2017, NYSOH received an update to your application financial assistance with health insurance.

On October 1, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for CHP with a \$45.00 monthly premium, for a limited time, effective November 1, 2017. You were requested to provide additional income documentation by November 21, 2017 to confirm her eligibility.

On October 3, 2017, NYSOH received a signed and dated copy of your 2016 federal tax return, reflecting that your federal adjusted gross income was \$62,054.00.

Also on October 3, 2017, NYSOH issued enrollment notice confirming your selection of a CHP plan for your child as of October 2, 2017, with such coverage beginning November 1, 2017.

Finally, on October 3, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On October 4, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for CHP with a \$45.00 monthly premium, without condition, effective 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).



On October 5, 2017, NYSOH issued an enrollment notice stating that your child's CHP enrollment would begin effective October 1, 2017.

Also on October 18, 2017, you spoke to NYSOH's Account Review Unit and filed an appeal, requesting that your child's CHP plan enrollment at a \$45.00 per month premium begin effective August 1, 2017, rather than October 1, 2017.

On December 18, 2017, you appeared at 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 support the following findings of fact:

- 1) Your child was found eligible for coverage through CHP with a \$30.00 monthly premium, for a limited time, effective June 1, 2017, pending receipt of income documentation by June 30, 2017.
- 2) Your NYSOH account reflects that no income documentation was received by NYSOH by June 30, 2017.
- 3) Your household's eligibility was redetermined on July 5, 2017.
- 4) Your child was redetermined eligible for her CHP plan at full cost, effective August 1, 2017, with a monthly premium of \$260.76.
- 5) On July 24, 2017, you provided to NYSOH, (1) a letter issued by you as [REDACTED], stating that you did not receive a salary during 2017, (2) a letter from your accountant, dated July 21, 2017, confirming that both you and your spouse were not paid any salary from your businesses, [REDACTED] and (3) checking account records for [REDACTED] between January 1, 2017 and July 1, 2017, and (4) Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return form submitted to NYS Dept. of Taxation and Finance for [REDACTED]
- 6) On July 26, 2017, NYSOH issued a notice confirming receipt of the income documentation you submitted to resolve the inconsistency in your application; however, the determination you provided was found not sufficient to resolve this inconsistency. You were requested to provide additional income documentation so that NYSOH could issue an eligibility determination notice.
- 7) On September 22, 2017, you revised your application to reflect that your household income was \$62,053.98. As a result, your child was permitted

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- to enroll in a CHP plan with a \$45.00 monthly premium, for a limited time, effective November 1, 2017.
- 8) You enrolled your child in a CHP plan on October 2, 2017, with a coverage start date of November 1, 2017. This start date of your child's CHP coverage was later backdated to October 1, 2017.
  - 9) On October 3, 2017, NYSOH received a signed and dated copy of your 2016 federal tax return, reflecting that your federal adjusted gross income was \$62,054.00.
  - 10) You testified that you were seeking for your child's CHP plan coverage at a monthly premium of \$45.00 to begin effective August 1, 2017, rather than November 1, 2017 (which was subsequently backdated to October 1, 2017).
  - 11) You live in Kings County, New York.

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

## **Applicable Law and Regulations**

### Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, 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 Public Health Law § 2511(2)(a)-(e)).

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 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,” including for periodic renewals (42 CFR § 457.340(f); 42 CFR §457.343).

In general, a child eligible for Child Health Plus must recertify their eligibility for enrollment through NYSOH once every twelve months (42 CFR § 457.343; 42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (NY Public Health Law § 2511(2)(f)(ii)).42 CFR § 435.916(a)(2)).

NYSOH is required to provide proper written notice to an applicant of any decision effecting an enrollee’s Child Health Plus eligibility (42 CFR § 457.340(e)). When Child Health Plus coverage is denied, suspended or terminated NYSOH must provide sufficient notice to enable the child's parent or caretaker relative to take appropriate actions to allow Child Health Plus coverage to continue without interruption (42 CFR § 457.340(e)(1)(D); 42 CFR § 457.1130(a)(3)).

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 State



Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### Verification Process

For all individuals, whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility 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).

### **Legal Analysis**

The first issue under review is whether your appeal of NYSOH's July 6, 2017 eligibility determination notice was timely.

On July 6, 2017, NYSOH issued an eligibility determination notice stating that your child was eligible for CHP coverage through NYSOH at full cost, effective August 1, 2017.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of eligibility as of August 1, 2017, an appeal should have been filed by September 4, 2017. The record reflects that the first time you called NYSOH to file a complaint about your spouse's eligibility and enrollment as of August 1, 2017 was October 18, 2017, which is well beyond the 60-day timeframe.

As such, there has been no timely appeal of the July 6, 2017 eligibility determination notice, and your appeal on that eligibility determination must be DISMISSED.

The second issue under review is whether NYSOH properly determined that your child's eligibility for CHP coverage with a \$45.00 monthly premium began effective November 1, 2017.

Your NYSOH account reflects that you provided to NYSOH on July 24, 2017: (1) a letter issued by you as [REDACTED] stating that you did not receive a salary during 2017, (2) a letter from your accountant, dated July 21, 2017, confirming that both you and your spouse were not paid any salary from your businesses, [REDACTED] and (3) checking account records for [REDACTED] between January 1, 2017 and July 1,

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2017, and (4) Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return form submitted to NYS Dept. of Taxation and Finance for [REDACTED]. While these documents may support your claim that you and your spouse did not receive a salary from your respective businesses, they do not confirm the gross income and expenses of the business for the three months prior to your application. Accordingly, NYSOH properly rejected this set of income documentation as invalid.

On September 22, 2017, you submitted a revised application through NYSOH, which indicated that you and your spouse's only income sources were through your businesses: [REDACTED]. This application also reflected that you received an additional \$1,950.00 in other income.

Your NYSOH account reflects that you did not provide copies of 2016 federal tax return reflecting that your adjusted gross income for the prior year was \$62,053.98 until October 3, 2017.

Accordingly, on October 3, 2017, NYSOH redetermined your household's eligibility based on a three-person household residing in Kings County, with a household income of \$62,053.98, which resulted in your child having been found eligible for CHP with a \$45.00 monthly premium, effective November 1, 2017. The record reflects that on October 3, 2017, you selected a CHP plan for your child's coverage.

The date on which an Essential Plan or CHP plan can take effect depends on the day a person selects the plan for enrollment.

Generally, a plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Therefore, the October 4, 2017 enrollment notice finding your child eligible for CHP plan coverage with a \$45.00 monthly premium, effective November 1, 2017, is AFFIRMED.

This decision has no effect on the subsequent backdating of your child's CHP coverage to October 1, 2017.

## **Decision**

You appeal of the July 6, 2017 eligibility determination notice is untimely, and must be DISMISSED.

The October 4, 2017 enrollment notice is AFFIRMED.

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).

**Effective Date of this Decision:** January 4, 2018

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

Your child was enrolled in her CHP plan at full cost between August 1, 2017 and September 30, 2017.

Your child's CHP plan coverage with a \$45.00 monthly premium properly began effective November 1, 2017, and was subsequently backdated to October 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 case 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)).

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

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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**

Your appeal of the July 6, 2017 eligibility determination notice is untimely, and must be DISMISSED.

The October 4, 2017 enrollment notice is AFFIRMED.

Your child was enrolled in her CHP plan at full cost between August 1, 2017 and September 30, 2017.

Your child's CHP plan coverage with a \$45.00 monthly premium properly began effective November 1, 2017, and was subsequently backdated to October 1, 2017.

## **Legal Authority**

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

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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)**

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 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.