



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

Notice of Decision

Decision Date: February 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024054

[REDACTED]

[REDACTED]

On January 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's August 23, 2017 eligibility determination 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
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.

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Decision Date: February 21, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024054



Issue

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

Did NY State of Health (NYSOH) properly determine on August 23, 2017 that your children were eligible to enroll in Child Health Plus at full cost, effective October 1, 2017?

Procedural History

On September 2, 2016, NYSOH issued an eligibility determination notice, based on your September 1, 2016 application, stating that your children were eligible to enroll in Child Health Plus (CHP) with a \$30.00 monthly premium each, effective October 1, 2016. This was based on your attested annual household income of \$63,640.00.

Also on September 2, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 1, 2016, confirming that your children were enrolled in a CHP plan with a \$60.00 monthly premium, and that this enrollment in the plan would start October 1, 2016.

On January 6, 2017, you submitted an updated application for health insurance for your family. The household income attested to in that application was \$118,586.01. That day a preliminary eligibility determination was prepared finding in part that your children were eligible for CHP and that they would remain in their plan and pay \$30.00 a month each until September 30, 2017.

On January 7, 2017, NYSOH issued an eligibility determination notice, based on your January 6, 2017 application, stating in part, that your children were eligible to enroll in CHP with a \$30.00 monthly premium each, effective February 1, 2017.

Also on January 7, 2017, NYSOH issued an enrollment notice, confirming that your children were enrolled in a CHP plan with a \$60.00 monthly premium, and that this enrollment in the plan started October 1, 2016.

On August 22, 2017, NYSOH systematically updated your account.

On August 23, 2017, NYSOH issued a system-generated eligibility determination notice, stating that your children were eligible for CHP at full cost or a Child-Only qualified health plan, effective October 1, 2017. This was based on annual household income of \$118,586.01, which was more than \$98,400.00, the allowable income range for subsidized CHP based on your household size.

Also on August 23, 2017, NYSOH issued an enrollment notice, based on the system update of August 22, 2017, stating that your children were enrolled in a CHP plan with a monthly premium of \$232.21 each, and that this enrollment in the plan would start October 1, 2017.

On November 6, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were required to pay a full cost premium for each of your children's CHP plan starting October 2017.

On January 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you are appealing only your children's eligibility that required you to pay full cost CHP premium for each of them starting October 1, 2017.
- 2) According to your NYSOH account, on September 1, 2016, you submitted an application for financial assistance and attested to a household income of \$63,640.00. Based on this application your children were determined eligible for CHP with a monthly premium of \$30.00 each effective October 1, 2016. They were subsequently enrolled in a CHP plan with a \$30.00 monthly premium amount starting October 1, 2016.

- 3) On January 6, 2017, you submitted an updated application for financial assistance and listed household income of \$118,586.01.
- 4) Your January 6, 2017 application lists your income at \$54,964.00 and your spouse's income at \$63,622.01 for a total household income of \$118,586.01. You testified that these amounts were correct at the time.
- 5) The January 7, 2017 eligibility determination notice stated that your children were eligible for CHP and that they would have a \$30.00 monthly premium each. On page seven of that notice was a table showing the children would have coverage from October 1, 2016 to September 30, 2017 at a monthly premium of \$30.00 each and starting October 1, 2017, the children would be enrolled in CHP at full price.
- 6) You testified that you and your spouse are in the process of a divorce. You testified that there is no legal separation but that your spouse no longer lives in the household.
- 7) According to your NYSOH account, you and your family reside in Nassau County.
- 8) According to your NYSOH account, the application for financial assistance you submitted on January 6, 2017 indicated that your tax filing status was married filing jointly and that you would claim two dependents on your tax return.
- 9) According to your January 6, 2017 application, you will not be taking any deductions on your tax return, and you testified that was correct.
- 10) According to your NYSOH account, on August 22, 2017, NYSOH systematically updated your account and applied for health insurance for your children based on the \$118,586.01 household income that you attested to in your January 6, 2017 application.
- 11) According to your NYSOH account, based upon the information that was in your account on August 22, 2017, NYSOH issued an eligibility determination on August 23, 2017 stating that your children were eligible for full cost CHP or a Child-Only qualified health plan effective October 1, 2017.
- 12) At the time of the system updated application of August 23, 2017 application, your children were [REDACTED]
- 13) According to your NYSOH account, your children were systematically enrolled in a full cost CHP plan with a monthly premium of \$232.21 each effective October 1, 2017.

- 14) You testified that you cannot afford to pay for full cost CHP insurance for the children because of your expenses such as mortgage, utilities, loans, insurance and taxes.

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 set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

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)). 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)).

In an analysis of CHP eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2017 FPL, which was \$24,600.00 for a four-person household (82 Federal Register 8831).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Household Composition

For purposes of financial assistance, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for

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the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Legal Analysis

The issue under review is whether NYSOH properly determined on August 23, 2017 that your children were eligible for enrollment in a CHP plan at full cost, effective October 1, 2017.

According to your NYSOH account at the time of the systemic update on August 22, 2017, you and your spouse would file your 2017 tax return as married filing jointly, and would claim your two children as dependents.

For purposes of determining eligibility for CHP, a determination of your children's family size is necessary. You testified that you and your spouse are in the process of a divorce. You testified that there is no legal separation but that your spouse no longer lives in the household. Family size is based on the tax filing status of the taxpayer(s) and the number of dependents claimed. The record reflects that your household as of the August 23, 2017 systemic update consisted of you, your spouse and two children. Therefore, your household size consisted of four persons.

The systemic application that was submitted on your children's behalf of August 22, 2017 was based on a household income of \$118,586.01. The August 22, 2017 systemic application relied on the household income you submitted on January 7, 2017 which listed your income at \$54,964.00 and your spouse's income at \$63,622.01 for a total household income of \$118,586.01. You testified that these amounts were correct at the time. You testified that since your spouse did not live in the household, that his income should not be considered. However, as noted above, household size is based on the tax filing status of the taxpayers and the number of dependents. Since you and your spouse would be filing your 2017 tax return as married filing jointly, NYSOH correctly included your spouse's income in the calculation of the household income for purposes of financial assistance for your children.

During the hearing, you testified that the amount of income you provided in your application was correct. However, you asked that your current expenses, which include mortgage, utilities, loans, insurance, taxes and other living expenses, be considered when calculating your annual household income because the full cost CHP plan were otherwise unaffordable. Since the Internal Revenue Service rules do not allow living expenses such as mortgage, utilities, loans, insurance, taxes, and other living expenses to be deducted from the calculation of your adjusted gross income, they cannot be deducted when NYSOH computes your modified adjusted gross income for financial assistance purposes. Therefore, the household income amount of \$118,586.01 that was used on August 22, 2017 in

calculating your children's eligibility for financial assistance with their CHP premium was correct.

The updated systemic application of August 22, 2017 used an expected household income of \$118,586.01 with a household size of four and that your children's ages were nine and seven years old. NYSOH relied upon this information.

A child is eligible to enroll in CHP with a subsidy if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the relevant FPL. On the date of the systemic updated August 22, 2017 application, the relevant FPL was \$24,600.00 for a four-person household. Households with an income above 400% of the FPL are not eligible to receive a CHP subsidy payment. Since \$118,586.01 is 482% of the 2017 FPL, it is over the allowable limit for financial subsidies for CHP. Therefore, on August 22, 2017, NYSOH properly found your children eligible to enroll only in a full price CHP plan and were ineligible for a CHP subsidy.

Since the August 23, 2017 eligibility determination notice properly stated that, based on the information you provided and that was available in your account, your children were eligible to enroll in a full price CHP plan, effective October 1, 2017, it is correct and is AFFIRMED.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH in regard to your children's eligibility.

Decision

The August 23, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 21, 2018

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

Your children were eligible to enroll in a full price CHP plan effective October 1, 2017.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH in regard to your children's eligibility.

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
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 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 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 August 23, 2017 eligibility determination notice is **AFFIRMED**.

This decision does not change your children's eligibility.

Your children were eligible to enroll in a full price CHP effective October 1, 2017.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH in regard to your children's eligibility.

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 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&etumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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