



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

Notice of Decision

Decision Date: February 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024131

[REDACTED]

Dear [REDACTED]

On January 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 24, 2016 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 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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Issues

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

Did you timely appeal NY State of Health's November 24, 2016 eligibility determination notice?

Did NY State of Health properly determine that your child was eligible for a full cost Child Health Plus plan, effective January 1, 2017?

Procedural History

On September 17, 2016, NY State of Health (NYSOH) received your child's updated application for financial assistance.

On September 18, 2016, NYSOH issued a notice stating your child was eligible for Child Health Plus for a limited time for a cost of \$15.00 per month, effective November 1, 2016. The notice instructed you to provide proof of your household income by November 16, 2016.

On September 18, 2016, NYSOH issued a plan enrollment notice confirming in part your child's enrollment in a Child Health Plus plan. The notice also reminded you that you needed to provide proof of income by November 16, 2016.

No income documentation was received by November 16, 2016.

On November 24, 2016, NYSOH issued an eligibility determination notice stating your child's eligibility was redetermined on November 23, 2016. The notice stated

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your child was now eligible for Child Health Plus at full price, effective, January 1, 2017, because state and federal data sources show your household income was over \$97,200.00.

On November 24, 2016, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan at \$218.53 per month, effective January 1, 2017.

On October 6, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus at \$30.00 per month, effective November 1, 2017.

On October 6, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan, effective November 1, 2017.

On November 7, 2017, you contacted the NYSOH Account Review Unit and requested an appeal of your child's Child Health Plus premiums.

On January 24, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you are appealing your child's eligibility for a full price Child Health Plus plan for the months of January 2017 through October 2017.
- 2) You testified your health plan is billing you for the full price of your child's Child Health Plus plan at \$218.53 per month from January 1, 2017 through October 31, 2017.
- 3) Your NYSOH account states your contact preference for notices from NYSOH is by regular U.S. mail. You testified that this is your current method of contact, but you were previously signed up for electronic notifications. You changed your preference to regular U.S. mail during your child's renewal application.
- 4) You testified that you had a different e-mail address in September 2016. You explained that NYSOH had this prior e-mail address on file. You further testified that you changed your e-mail address when you updated your child's application on October 5, 2017.

- 5) You testified that you did not receive any electronic alerts to your old e-mail address regarding any notice in your NYSOH account telling you that you needed to update your application in order to confirm your household income by November 16, 2016, so that your child's eligibility for financial assistance could be verified.
- 6) The Hearing Officer asked you if you were regularly checking your previous e-mail address in September 2016. You testified that you were not checking that e-mail address a lot. You were concerned about viewing information in your old e-mail address and were not checking that e-mail because of news stories of hacking with [REDACTED] accounts.
- 7) You confirmed the mailing address in your NYSOH account is correct.
- 8) According to your NYSOH account, NYSOH received your child's initial application for financial assistance on September 17, 2016.
- 9) You were instructed to provide income documentation to confirm your household's income and your child's eligibility by November 16, 2016.
- 10) Your NYSOH account shows NYSOH did not receive your income documentation prior to the deadline of November 16, 2016.
- 11) You testified that you were not aware that you had to provide income documentation until you had a high past premium responsibility reported to you by your health plan when you renewed your child's coverage in October 2017.
- 12) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 13) Your application states your child resides in Suffolk County, NY.

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.

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)).

“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).

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).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or 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 (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)). If an electronic notice is undeliverable, NYSOH must send a notice by regular mail within three business days of the date of a failed electronic communication (42 CFR §435.918(b)(5)).

Requirement for Individuals to Report Changes

NYSOH must require an applicant to report any change which may affect eligibility, such as citizenship status, incarceration, residency, household size, and income within 30 days of such change (45 CFR §155.330(b), 45 CFR §155.305, 42 CFR §435.403, 42 CFR §435.406, 42 CFR §425.603).

Legal Analysis

The first issue under review is whether you timely appealed NYSOH's November 24, 2016 eligibility determination notice

On November 24, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a Child Health Plus plan at full price, effective January 1, 2017.

The record indicates you are appealing your child's eligibility for a full price Child Health Plus plan, effective January 1, 2017. On November 7, 2017, a formal appeal was filed on the issue of your child's eligibility for the Child Health Plus plan at full price, effective January 1, 2017.

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

For an appeal to have been valid on the issue of your child's full price Child Health Plus plan, as addressed in the November 24, 2016 notice, an appeal should have been filed by January 23, 2017.

According to the credible evidence of record, you did not contact NYSOH until November 7, 2017, to file a formal appeal. However, you credibly testified you were not made aware of an outstanding balance requested by your child's health plan until you renewed your child's application for Child Health Plus in October 2017.

Therefore, NYSOH's Appeals Unit may consider your appeal request timely for purposes of its review.

The second issue under review is whether NYSOH properly determined that your child was eligible for a full cost Child Health Plus plan, effective January 1, 2017.

Your child was originally found conditionally eligible for Child Health Plus, effective November 1, 2016, pending proof of household income to verify her eligibility. The September 18, 2016 eligibility determination notice to this effect also instructed you provide proof of your household income by November 16, 2016, to confirm the income information you provided in your application. The September 18, 2016 plan enrollment notice reminded you of the same.

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. Since NYSOH did not receive the requested income documentation before the November 16, 2016 deadline such that your child's eligibility for a subsidy could not be verified, your child's eligibility was redetermined for a full price Child Health Plus plan as of January 1, 2017.

You testified you were not aware of the need to provide income documentation until you were notified by your child's health plan of the outstanding premium responsibility due for the 2017 period of January 1, 2017 through October 31, 2017. The full monthly premium amount was \$218.53 per month.

Your NYSOH account confirms that you are currently signed up to receive notifications by regular U.S. mail. However, you explained that you only recently selected to receive notifications in this method, and were previously signed up to receive electronic alerts sent to your e-mail address. You testified you had a prior e-mail address on file with NYSOH.

When the Hearing Officer asked you if you were using this prior e-mail address and checking it regularly in the month of September 2016, you responded that you were not checking that e-mail address often as you were concerned with news reports about computer hacking of [REDACTED] e-mail accounts.

You testified you believe you never received an electronic notice from NYSOH stating you had to provide proof of your household's income by November 16, 2016.

NYSOH is required to send applicants proper notice in order for applicants to take appropriate action and contends that it complies with federal mandates regarding electronic notifications.

Since you testified that you were not regularly checking your prior e-mail address during the time period of September 2016, it cannot be established if NYSOH failed to send you the proper notification. Assuming the notification was sent, you would not have been aware of a notice in your NYSOH account as you were not regularly using this e-mail address at that point in time.

NYSOH requires an applicant to report any change which may affect their eligibility. If you were no longer in use of your prior e-mail address you were required to update the address with NYSOH or update your method of contact. You testified you did not update your e-mail address until you updated your child's application on October 5, 2017, when you testified to not using your email address as early as September 2016.

Since NYSOH contends it has complied with the federal requirements of e-mail notifications to your NYSOH account and your testimony supports that you were not in regular use of that e-mail address at the time of September 18, 2016 notice requesting proof of income or the November 24, 2016 notice informing you your child's plan was now at full cost, it is determined that NYSOH provided you adequate notice of the need for more information which you failed to respond to and which resulted in the full cost determination for Child Health Plus, effective January 1, 2017.

Therefore, the November 24, 2016 eligibility determination notice is AFFIRMED.

Decision

The November 24, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 20, 2018

How this Decision Affects Your Eligibility

Your child was eligible for a full cost Child Health Plus plan effective January 1, 2017.

This decision has no effect on determinations made after the November 24, 2016 eligibility determination notice.

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 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 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:

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NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 24, 2016 redetermination notice is **AFFIRMED**.

Your child was eligible for a full cost Child Health Plus plan effective January 1, 2017.

This decision has no effect on determinations made after the November 24, 2016 eligibility determination notice.

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 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.

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