



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

## Notice of Decision

Decision Date: February 14, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024170

[REDACTED]  
[REDACTED]  
[REDACTED]

On January 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 25, 2017 enrollment confirmation notice and October 1, 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.

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: February 14, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024170



## 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 October 1, 2017 that your children were eligible to enroll in Child Health Plus at full cost, effective November 1, 2017?

## Procedural History

On September 20, 2016, you submitted an updated application for health insurance for your children.

On September 21, 2016, NYSOH issued an eligibility determination notice, based on your September 20, 2016 application, stating that your children were eligible to enroll in Child Health Plus (CHP) for a limited period of time, with a \$0.00 monthly premium, effective November 1, 2016. The notice stated that you needed to submit proof of household income by November 19, 2016.

Also on September 21, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 20, 2016, stating that your children were enrolled in a CHP plan, with a monthly premium of \$0.00 and that this enrollment in the plan would start November 1, 2017.

On October 17, 2016, you submitted an updated application for health insurance for your children.

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On October 18, 2016, NYSOH issued an eligibility determination notice, based on your October 17, 2016 application, stating that your children were eligible to enroll in Child Health Plus (CHP) for a limited period of time, with a \$0.00 monthly premium, effective November 1, 2016. The notice stated that you needed to submit proof of household income by November 19, 2016.

Also on October 18, 2016, NYSOH issued an enrollment notice, based on your plan selection on September 20, 2016, stating that your children were enrolled in a CHP plan with a monthly premium of \$0.00, and that this enrollment in the plan would start November 1, 2017.

Also on October 18, 2016, NYSOH issued a notice stating that the documentation you had previously submitted as proof of income did not confirm the information in your application. You were directed to submit more proof of household income by November 19, 2016.

On November 25, 2016, NYSOH updated your application based on information obtained from state and federal data sources and an application for health insurance was submitted on behalf of your children.

On November 26, 2016, NYSOH issued an eligibility determination notice, based on the system-generated redetermination on November 25, 2016, stating that your children were eligible to enroll in CHP, with a \$9.00 monthly premium each, effective January 1, 2017. The notice stated that because you did not submit income documentation, to confirm the information in your application, NYSOH based your children's premium on information from federal and state data sources.

Also on November 26, 2016, NYSOH issued an enrollment notice, based on the system update of November 25, 2016, stating that your children were enrolled in a CHP plan with a collective monthly premium of \$27.00, and that this enrollment in the plan would start November 1, 2017.

On December 7, 2016, you submitted additional income documentation to NYSOH.

On December 12, 2016, NYSOH reviewed and verified the income documentation you submitted and your household income was adjusted to \$161,599.92. NYSOH submitted an updated application for health insurance for your children based on this increased household income.

On December 13, 2016, NYSOH issued an eligibility determination notice, based on the system updated application of December 12, 2016, stating that your children were eligible for CHP, with a \$9.00 monthly premium each, effective January 1, 2017. Listed on page seven of that notice was information that your children were eligible for \$9.00 monthly premiums for the period of January 1,

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2017 to October 31, 2017 and then eligible to enroll in CHP at full cost for the period of November 1, 2017 to December 31, 2017.

Also on December 13, 2016, NYSOH issued an enrollment notice, based on the system update of November 25, 2016, stating that your children were enrolled in a CHP plan with a monthly premium of \$27.00, and that this enrollment in the plan would start November 1, 2016.

On September 24, 2017, NYSOH systematically updated your account.

On September 25, 2017, NYSOH issued an enrollment notice, based on the system update of September 24, 2017, stating that your children were enrolled in a CHP plan with a monthly premium of \$260.76 each, and that this enrollment in the plan would start November 1, 2017.

On October 1, 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 November 1, 2017. This was based in annual household income of \$161,599.92, which was more than \$131,840.00, the allowable income range for subsidized CHP based on your household size.

On October 24, 2017, NYSOH issued a notice that it was time to renew your children's health insurance coverage. You were directed to update your account between November 16, 2017 and December 15, 2017.

On November 7, 2017, you submitted an updated application for health insurance for your children.

On November 8, 2017, NYSOH issued an eligibility determination notice, based on your November 7, 2017 application, stating that your children were eligible to enroll in CHP for a limited period of time, with a \$30.00 monthly premium, effective December 1, 2017. The notice stated that you needed to submit proof of household income by January 6, 2018.

Also on November 8, 2017, NYSOH issued an enrollment notice, based on your plan selection on November 7, 2017, stating that your four oldest children were enrolled in a CHP plan, with a plan enrollment start date of December 1, 2017.

Also on November 8, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as you were required to pay a full cost premium for the month of November 2017 for each of your four oldest children.

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.

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## Findings of Fact

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

- 1) You testified that you are appealing only your four oldest children's eligibility that required you to pay full cost CHP premium for each of them for November 2017.
- 2) You applied to NYSOH for financial assistance for your children on September 20, 2016. NYSOH issued eligibility determination notices stating that your four children were eligible for CHP for a limited time, effective November 1, 2016. You were directed to submit proof of household income by November 19, 2016.
- 3) No verified proof of income was submitted by November 19, 2016.
- 4) According to your NYSOH account, on November 25, 2016, NYSOH updated your application for your children's health insurance based on data obtained from state and federal data sources.
- 5) According to your NYSOH account, on November 26, 2017, NYSOH issued an eligibility determination notice that stated your children were eligible for CHP effective January 1, 2017 and that they would have a \$9.00 monthly premium each.
- 6) According to your NYSOH account, on December 7, 2016, you submitted a letter from your employer dated November 18, 2016 that stated you were a full-time employee as of November 16, 2016 and that your annual salary would be \$110,000.00.
- 7) According to your NYSOH account, on December 12, 2016 that income documentation was reviewed and verified. NYSOH increased the income in your application by \$110,000.00 to \$161,599.92 and a new application for health insurance was submitted for your children. This income consisted of \$41,600.00 (\$800.00 a week your spouse earned from employment at two jobs), \$31,999.92 (\$2,666.66 you earned monthly from self-employment business) and \$110,000 from employment at [REDACTED] less \$22,000.00 in deductions you listed.
- 8) According to your NYSOH account, on December 13, 2016, NYSOH issued an eligibility determination stating your children were eligible for CHP with a \$9.00 monthly premium each, effective January 1, 2017. The December 13, 2016 eligibility determination notice stated on page seven that your children would have a \$9.00 monthly premium for the period January 1, 2017 to October 31, 2017 and they would be enrolled in CHP plan at full cost for the period of November 1, 2017 to December 31, 2017.

- 9) According to your NYSOH account, on September 24, 2017, NYSOH systematically updated your account and applied for health insurance for your children based on the \$161,599.92 household income that NYSOH calculated on December 12, 2016. The notice does not state the basis for how your household income was calculated, which led to the increase in your premium starting November 1, 2017.
- 10) On October 1, 2017, NYSOH issued the legibility determination notice that was based on the September 24, 2017 update.
- 11) According to your NYSOH account and your testimony, you were required to pay \$260.76 for each of the four children for CHP premium for the month of November 2017.
- 12) According to your NYSOH account, based on an updated January 12, 2018 application for financial assistance, your four older children have been determined eligible for CHP with a \$60.00 monthly premium each, subject to the family cap.
- 13) According to your NYSOH account, your four older children [REDACTED] [REDACTED]. You also have a newborn child with a date of birth of [REDACTED].
- 14) According to your NYSOH account, your family resides in Kings County.
- 15) You testified that you want the premium for your four older children for the month of November 2017 to be \$27.00 as it was for the previous months.

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

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for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

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)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL, but no more than \$27.00 per month per family (NY PHL § 2510(9)(d)(ii)).

In an analysis of Child Health Plus 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 is \$32,960.00 for a six-person household (82 Federal Register 8831).

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

You and your spouse will file your 2017 tax return as married filing jointly, and at the time of the October 1, 2017 eligibility determination you would be expected to claim four dependents.

On September 21, 2016 and October 18, 2016, NYSOH issued eligibility determination notices that found your children conditionally eligible for CHP for a limited time, with a \$0.00 monthly premium each. You were required to submit acceptable proof of household income by November 19, 2016 to confirm the children’s eligibility. No acceptable proof of income was submitted by November

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19, 2016. On November 25, 2016, NYSOH ran your children's eligibility based on state and federal data that NYSOH obtained. Based on the November 25, 2016 redetermination, NYSOH determined that your children were eligible for CHP and that their monthly premium would be \$9.00 a month each. When a family has more than three children eligible for CHP at \$9.00 per month each, there is a cap at \$27.00 per month per family. Therefore, your four children's total monthly CHP premium was capped at \$27.00 a month. The November 25, 2016 eligibility determination stated that the children's eligibility was effective January 1, 2017.

NYSOH instituted a CHP "lock-in" period where a child who is newly eligible for that program will be locked into their initial premium payment for 12 months from the date of eligibility. As such, the November 25, 2016 determination should have locked in your children's premium payment of \$9.00 a month for 12 months, or until January 1, 2018.

As such the October 1, 2017 eligibility determination notice that stated your children were eligible for CHP at full cost or a Child-Only qualified health plan was in error because your children were entitled to a \$9.00 monthly premium each, capped at \$27.00 a month through the end of December 31, 2017, and it is RESCINDED.

It necessarily follows that the September 25, 2017 enrollment notice stating that your children were enrolled in a CHP plan with a \$260.76 premium each, effective November 1, 2017 is RESCINDED.

Your case is RETURNED to NYSOH to effectuate the changes above and to notify you accordingly.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH.

## **Decision**

The September 25, 2017 enrollment confirmation notice is RESCINDED.

The October 1, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to effectuate the changes above and to notify you accordingly.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH.

**Effective Date of this Decision:** February 14, 2018

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

Your four oldest children were eligible for enrollment in CHP plan during the month of November 2017 with a \$9.00 monthly premium each, capped at a total premium of \$27.00 for that month.

Your case is RETURNED to NYSOH to enroll your four oldest children in their CHP plan for the month of November 2017 with a total premium responsibility of \$27.00 and to notify you accordingly.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH.

### **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:

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- 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  
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- By fax: 1-855-900-5557

### **Summary**

The September 25, 2017 enrollment confirmation notice is RESCINDED.

The October 1, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to effectuate the changes above and to notify you accordingly.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH.

Your four oldest children were eligible for enrollment in CHP plan during the month of November 2017 with a \$9.00 monthly premium each, capped at a total premium of \$27.00 for that month.

Your case is RETURNED to NYSOH to enroll your four oldest children in their CHP plan for the month of November 2017 with a total premium responsibility of \$27.00 and to notify you accordingly.

This decision does not affect any subsequent eligibility determination notices issued by NYSOH.

### **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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