



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

Notice of Decision

Decision Date: February 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024325

[REDACTED]

[REDACTED]

On January 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 9, 2017 and November 11, 2017 eligibility determination 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: February 22, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024325



Issue

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

Did NY State of Health (NYSOH) properly determine your children were not eligible to receive a CHP subsidy, effective December 1, 2017?

Procedural History

On November 9, 2017 and November 11, 2017, NYSOH issued eligibility determination notices, based on your November 8, 2017 updated applications, indicating your children were eligible for a full-pay Child Health Plus (CHP) plan or a child-only qualified health plan, effective December 1, 2017. The notices indicated that your children were not eligible for a subsidy, because your household income was over the allowable limit for that program.

On November 14, 2017, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as your children were not eligible for a CHP subsidy.

On January 9, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open to January 23, 2018 to allow you to submit supporting documents. As of January 23, 2018, the Appeals Unit had not received any documentation and no documents were viewable in your NYSOH account. The record closed that day and this decision is based on the record as developed during the hearing.

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Findings of Fact

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

- 1) Several updated applications were submitted on behalf of your children on November 8, 2017. Each application listed your total household income for 2017 as \$164,020.00, consisting of \$79,000.00 you would earn from your employment and \$85,020.00 your spouse would earn from her employment. You testified that the income information listed in your applications was accurate for 2017.
- 2) The applications indicated you would file your 2017 tax return with a tax filing status of married filing jointly and you would claim three dependents on that tax return. You testified that information was accurate.
- 3) NYSOH determined your children ineligible for financial assistance on the grounds your household income exceeded the income limit to qualify them for financial assistance.
- 4) You appealed insofar as your children were not eligible to enroll in CHP with a subsidy.
- 5) You testified that you were employed in 2017 with an annual salary of \$100,000.00, but that job ended in October 2017 and you only earned an income of \$79,000.00 in 2017. You testified that you have not worked since that job ended. You testified that you began receiving unemployment insurance benefits the second week of November 2017 and that was your only current income.
- 6) You testified that your spouse is paid biweekly at a gross rate of \$3,270.00 and that she has pre-tax deductions taken for her health insurance premiums. You were not sure the amount of those deductions.
- 7) You were directed to submit proof of your household income for 2018 by January 23, 2017 including documentation of the end date of your prior employment, unemployment insurance benefit payment history, and your spouse's most current paystubs. No documentation was received by the Appeals Unit by the due date and, as of the date of this decision, no such documentation was viewable in your NYSOH account.
- 8) You testified, and your applications indicate, you will not take any deductions on your 2017 tax return.
- 9) You testified, and your applications indicate, you reside in Kings County.

- 10) You testified you are seeking review of your children's eligibility for a CHP subsidy, only.

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)).

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 was \$28,780.00 for a five-person household (80 Federal Register 3236, 3237).

Legal Analysis

The issue under review is whether NYSOH properly determined your children were ineligible for a CHP subsidy, effective December 1, 2017.

Several updated applications were submitted on behalf of your children on November 8, 2017. Each application listed your total household income for 2017 as \$164,020.00 consisting of \$79,000.00 you would earn from your employment and \$85,020.00 your spouse would earn from her employment. You testified that the income information listed in your application was accurate for 2017. NYSOH determined your children ineligible for financial assistance on the grounds your household income exceeded the income limit to qualify them for financial assistance. You appealed that determination.

Pursuant to the regulations, 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

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a household income below 400% of the FPL. There is no evidence in the record to indicate your children did not meet any non-financial requirements.

Based on the evidence indicating that you will file your 2017 tax return with a tax filing status of married filing jointly and you will claim your three children as dependents, your children are deemed to be in a five-person household for eligibility determination purposes.

The annual income amount of \$164,020.00 for 2017, as listed in your applications, was relied upon by NYSOH in the eligibility determinations at issue. You testified that the information in those applications was accurate for 2017. Thus, your children's eligibility will be reviewed based upon that information.

On the date of your applications, the relevant FPL was \$28,780.00 for a five-person household. Since \$164,020.00 is 569.9% of the applicable FPL, over the 400% income limit, NYSOH properly determined that your children were not eligible for a CHP subsidy.

Therefore, the November 9, 2017 and November 11, 2017 eligibility determination notices stating your children were eligible for a full-pay CHP plan, effective December 1, 2017, and ineligible for a subsidy, were correct and are AFFIRMED.

It is noted that although you testified that your income in 2018 will be less than it was in 2017, because you have not worked since October 2017 and your only current income is unemployment insurance benefits, you failed to submit any documentation evidencing your current income, despite being directed to do so. Therefore, there is insufficient evidence in the record to redetermine your children's current eligibility for financial assistance with health insurance.

Decision

The November 9, 2017 and November 11, 2017 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: February 22, 2018

How this Decision Affects Your Eligibility

Your children remain eligible to enroll in a full cost CHP plan and ineligible for a subsidy.

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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):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The November 9, 2017 and November 11, 2017 eligibility determination notices are AFFIRMED.

Your children remain eligible to enroll in a full cost CHP plan and ineligible for a subsidy.

Legal Authority

We are sending you this notice 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 मददत चाहन्छि भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोलने 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&btumi 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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