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

Notice of Decision

Decision Date: February 2, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024562

[redacted]

[redacted]

On January 11, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 20, 2017 and November 21, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 2, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024562

[redacted]

Issue

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

> Did NYSOH properly determine that the two children you claim as dependents were eligible for Child Health Plus at full cost, effective January 1, 2018?

Procedural History

On November 20, 2017, NYSOH issued an eligibility determination notice, based on your November 19, 2017 application, stating in part that the two children you claim as dependents were eligible for Child Health Plus at full cost, effective January 1, 2018, and that your third child was eligible for Child Health Plus with a $60.00 monthly premium for a limited time, effective January 1, 2018. The notice directed you to provide proof of your third child's household income by January 18, 2018, to confirm her eligibility.

Also on November 20, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as two of your children were not eligible for subsidies towards their Child Health Plus premiums.

On November 21, 2017, NYSOH issued an eligibility determination notice stating in part that the two children you claim as dependents were eligible for Child Health Plus at full cost, effective January 1, 2018, and your third child was eligible for Child Health Plus with a $60.00 monthly premium, without condition, effective January 1, 2018.

On December 14, 2017, NYSOH issued a plan enrollment notice confirming your three children's enrollment in a Child Health Plus plan, effective January 1, 2018. That notice indicated that the two of your children you claim as dependents had full cost monthly premiums of $192.39 each and your third child had a $60.00 monthly premium.

On January 11, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open until January 26, 2018, to allow you to submit supporting documents.

On January 11, 2018, you uploaded pages [redacted] of your [redacted] separation agreement; pages [redacted] of your [redacted] judgement of divorce; pages [redacted] of your [redacted] second modification of agreement; and pages [redacted] of the [redacted] which incorporates the second modification agreement. These seventeen pages are marked as Document [redacted] and are hereby incorporated into the record. The record is now closed.

Findings of Fact

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

1) You testified that you are seeking to receive subsidies toward the cost of your two children's monthly Child Health Plus premiums similar to that of your third child.

2) According to your NYSOH account and your testimony, you expect to file your 2018 federal tax return with a tax filing status of Head of Household (with Qualifying Individuals). You will claim two of your three children on that tax return.

3) You testified, and provided the [redacted] second modification of agreement and the [redacted] which incorporates the second modification agreement to show that, you and your ex-spouse agreed that she would claim the third child as a tax dependent commencing with the 2017 tax year.

4) You testified, and provided the [redacted] separation agreement and [redacted] judgement of divorce to show that, you and your ex-spouse share equally in the legal and physical custody of your three children.

5) You testified, and provided the [redacted] separation agreement and [redacted] judgement of divorce to show that, by court order,

you are required to provide and pay for your three children's health insurance.

6) According to your November 20, 2017 application, your 2018 expected annual household income is listed as $94,868.81 in earnings. You testified this amount was correct.

7) The November 20, 2017 application indicates that the two children you will claim as dependents are [redacted], and that your third child is [redacted].

8) According to your NYSOH account, you and your children reside in [redacted], New York.

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)).

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)).

The CHP premium is $15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than $54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

The CHP premium is $30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than $90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

The CHP premium is $45.00 per month for a child whose family household income is between 301% and 350% of the FPL, but no more than $135.00 per month per family (NY PHL § 2510(9)(d)(v)).

The CHP premium is $60.00 per month for a child whose family household income is between 351% and 400% of the FPL, but no more than $180.00 per child (NY PHL § 2510(9)(d)(vi)).

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 $20,420.00 for a three-person household and $24,600.00 for a four-person household (82 Fed. Reg. 8831).

Household Composition for Child Health Plus

The State of New York has elected to adopt the Modified Adjusted Gross Income methodology utilized in determining Medicaid eligibility as provided for in 42 CFR 457.315 and 42 CFR 435.603(b) through (j) when determining eligibility for Child Health Plus subsidies (*see* State Plan Amendment (SPA) NY-14-0001, approved May 5, 2014 and effective January 1, 2014).

The household of an individual who expects to be claimed as a tax dependent by another taxpayer consists of the household of the taxpayer claiming the individual as a dependent, except that where a child expects to be claimed as a tax dependent by a non-custodial parent, the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

A non-custodial parent is determined by either a court order or binding separation, divorce, or custody agreement establishing physical custody; or if there is no such agreement or in the event of a shared custody agreement, the

custodial parent is the parent with whom the child spends most nights (42 CFR §435.603(f)(2)(iii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that the two children you claim as dependents were eligible for Child Health Plus at full cost, effective January 1, 2018.

According to the record, you expect to file your 2018 tax return as Head of Household (with Qualifying Individuals) and will claim two of your three children on that tax return.

The household of an individual who expects to be claimed as a tax dependent by another taxpayer consists of the household of the taxpayer claiming the individual as a dependent, except where a child expects to be claimed as a tax dependent by a non-custodial parent.

You testified, and the record reflects, that you and your ex-spouse share equally in the physical custody of your children. Therefore, you are a custodial parent of your children.

As such, the household size for the purposes of determining eligibility for financial assistance through NYSOH of the two children you claim as dependents is the same as your household size. As your household for the purposes of determining eligibility for financial assistance through NYSOH consists of yourself and the two children you plan to claim as dependents, the two children you claim as dependents are in a three-person household.

In your November 20, 2017 application, you attested to an expected household income of $94,868.81. The application also stated that your two dependent children are [redacted]. NYSOH relied upon this information.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. On the date of your application, the relevant FPL was $20,420.00 for a three-person household. Households with an income above 400% of the FPL are not eligible to receive a Child Health Plus subsidy payment. Since $94,868.81 is 464.59% of the 2017 FPL, NYSOH properly found the two children you claim as dependents eligible for Child Health plus at full cost and ineligible for a Child Health Plus subsidy.

Since the November 20, 2017 and November 21, 2017 eligibility determination notices properly stated that, based on the information you provided, the two

children you claim as dependents were eligible to enroll in a full price Child Health Plus they are correct and are AFFIRMED.

Decision

The November 20, 2017 eligibility determination notice is AFFIRMED.

The November 21, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: February 2, 2018

How this Decision Affects Your Eligibility

This decision does not change your children's eligibility.

The two children you claim as dependents remain eligible for Child Health Plus at full cost.

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:

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

- By fax: 1-855-900-5557

Summary

The November 20, 2017 eligibility determination notice is AFFIRMED.

The November 21, 2017 eligibility determination notice is AFFIRMED.

This decision does not change your children's eligibility.

The two children you claim as dependents remain eligible for Child Health Plus at full cost.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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).

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 مجانًا.

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।

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).

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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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