



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

Notice of Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024791

[REDACTED]

[REDACTED]

On January 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 20, 2017 disenrollment notice and December 8, 2017 eligibility 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).

This page intentionally left blank.



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

Decision

Decision Date: February 02, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000024791



Issues

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

Did NY State of Health properly disenroll your children from their Child Health Plus plans as of November 30, 2017?

Did NY State of Health properly determine that your children were eligible to enroll in Child Health Plus plans with a \$30.00 monthly premium per child, effective January 1, 2018?

Procedural History

On June 27, 2017, NY State of Health (NYSOH) issued a notice of eligibility redetermination, stating that your children were eligible to enroll in Child Health Plus plans, for a limited time, with a \$15.00 monthly premium per child, effective August 1, 2017.

On June 28, 2017, NYSOH issued an enrollment confirmation notice stating that your children were enrolled in a Child Health Plus plan, effective August 1, 2017.

On July 6, 2017, NYSOH issued a notice of eligibility redetermination, stating that your children were eligible to enroll in Child Health Plus plans with a \$15.00 monthly premium per child, effective August 1, 2017.

On November 19, 2017, your NYSOH account was updated, specifically your income was updated and your tax filing status was changed from married filing jointly to single.

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).

On November 20, 2017, NYSOH issued a notice of eligibility redetermination, stating that your children were conditionally eligible for Medicaid, effective December 1, 2017. Their eligibility was contingent on you providing proof of their third-party health insurance.

Also on November 20, 2017, NYSOH issued a notice of disenrollment, stating that your children's enrollments in their Child Health Plus plans would end on November 30, 2017, because they were no longer eligible to enroll.

On November 24, 2017, your NYSOH account was updated, specifically your tax filing status was changed from single to married filing jointly.

On November 25, 2017, NYSOH issued a notice of eligibility redetermination, stating that your children were eligible to enroll in Child Health Plus plans, with a \$60.00 monthly premium per child, effective January 1, 2018.

Also on November 25, 2017, you spoke to NYSOH's Account Review Unit and appealed the level of premiums for your children's Child Health Plus plans, requesting that the previously determined monthly premium of \$15.00 per child be locked in and reset.

On December 2, 2017, NYSOH issued a notice of enrollment confirmation, stating that your children were enrolled in Child Health Plus plans, with a \$60.00 monthly premium per child, effective January 1, 2018.

On December 7, 2017, your NYSOH account was updated, specifically your income was updated.

On December 8, 2017, NYSOH issued a notice of eligibility redetermination, stating that your children were eligible to enroll in Child Health Plus plans, with a \$30.00 monthly premium per child, effective January 1, 2018.

Also on December 8, 2017, NYSOH issued a notice of enrollment confirmation, stating that your children were enrolled in Child Health Plus plans, with a \$30.00 monthly premium per child, effective January 1, 2018.

On January 17, 2018, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On January 24, 2018, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the hearing. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) On June 26, 2017, you submitted an updated application for financial assistance with health insurance, which reflected a tax filing status of “Married filing jointly” and an expected yearly income of \$60,142.00.
- 2) On November 19, 2017, you submitted an updated application for financial assistance with health insurance, which reflected a tax filing status of “Single” and an expected yearly income of \$21,725.00.
- 3) You testified that when you updated your application on November 19, 2017 you had made a mistake by changing your tax filing status from married filing jointly to single because you and your spouse are separated but can still file a joint return.
- 4) You testified that you did not contact NYSOH after your children were determined conditionally eligible for Medicaid.
- 5) On November 24, 2017 you updated your application to include a tax filing status of married filing jointly.
- 6) You testified that the income information on your November 24, 2017 application was not accurate for 2018 because it included income you received in 2017 from unemployment benefits.
- 7) On December 7, 2017, you submitted an updated application for financial assistance with health insurance, which reflected a tax filing status of “Married filing jointly” and an expected yearly income of \$72,040.67. This application did not include the unemployment benefits because you expected to be employed for 2018.
- 8) You testified that the annual income on your December 7, 2017 application of \$72,040.67 is correct.
- 9) The record reflects that the annual income reported on your application includes deductions for student loan interest, property tax, and [REDACTED] expenses.
- 10) Your application states that you will claim your two children as dependents.
- 11) You testified that you want the premiums for your children’s plans to be set to the \$15.00 per month premium because they should have had that coverage for an entire year.

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 “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

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 \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (NY PHL § 2510(9)(d)(iv)).

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 \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

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

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).

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

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

In an analysis of Medicaid 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 \$20,420.00 for a three-person household ((82 Fed. Reg. 8831).

Legal Analysis

The first issue is whether NYSOH properly disenrolled your children from their Child Health Plus plans as of November 30, 2017.

On June 26, 2017, you submitted an updated application for financial assistance with health insurance, which reflected a tax filing status of “Married filing jointly” and an expected yearly income of \$60,142.00. As a result of this application, your children were eligible for a limited time and enrolled in Child Health Plus with a \$15.00 per month premium each, effective August 1, 2017.

On July 6, 2017, NYSOH issued a notice of eligibility redetermination stating that your children were fully eligible for Child Health Plus with a \$15.00 per month premium, effective August 1, 2017.

On November 19, 2017, you updated your household’s application for financial assistance. Specifically, you updated the tax filing status and lowered the expected yearly income.

This resulted in your children being found conditionally eligible for Medicaid and disenrolled them from their Child Health Plus plans. The November 20, 2017 disenrollment notice states that your children’s Child Health Plus plans would end on November 30, 2017 because they were no longer eligible.

On your November 19, 2017 application, you expected to file your tax return as “Single” and claim two dependents on that tax return. Therefore, your children were in a three-person household according to that application.

On your November 19, 2017 application, you requested that your eligibility be determined using an expected yearly income of \$21,725.00.

Medicaid can be provided through NYSOH to children at least one year of age but younger than nineteen if they meet the non-financial criteria and have a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size. Since the 2017 FPL for a three-person household is \$20,420.00, your children would qualify for Medicaid at an income up to \$31,447.00. Therefore, NYSOH correctly determined that, with a household income of \$21,725.00, your children were conditionally eligible for Medicaid.

As of September 1, 2007, children who appear eligible for Medicaid are no longer eligible to enroll in Child Health Plus on a temporary basis.

Therefore, NYSOH properly disenrolled your children from their \$15.00 per month Child Health Plus plans, effective November 30, 2017, based on the information you provided, and the November 20, 2017 disenrollment notice is AFFIRMED.

The second issue is whether NYSOH properly determined that your children were eligible to enroll in Child Health Plus plans with a \$30.00 monthly premium per child, effective January 1, 2018.

On November 24, 2017, your NYSOH account was updated, specifically your income was updated and your tax filing status was changed from single to married filing jointly. As a result of this application, your children were found eligible for Child Health Plus with a \$60.00 per month premium, effective January 1, 2018.

You testified that the income information on your November 24, 2017 application was not accurate for 2018 because it included income you received in 2017 from unemployment benefits.

On December 7, 2017, you submitted an updated application for financial assistance with health insurance, which reflected a tax filing status of “Married filing jointly” and an expected yearly income of \$72,040.67. You testified this amount was correct. As a result of this application, your children were found eligible for Child Health Plus with a \$30.00 per month premium.

According to your December 7, 2017 application, you will file your 2017 tax return with a filing status of "Married filing jointly" and will claim your two children as dependents. Therefore, for purposes of this analysis your children reside in a four-person household.

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. Households with an income between 251% and 300% of the FPL are responsible for a \$30.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$24,600.00 for a four-person household. Since \$72,040.67 is 293% of the 2017 FPL, NYSOH properly found your children to be eligible for Child Health Plus with a \$30.00 monthly premium per child.

You testified that you want the premiums for your children's Child Health Plus plans to be set to the \$15.00 per month because they should have had that coverage for an entire year but for the mistake you made with your application on November 19, 2017.

Once a child becomes eligible for Child Health Plus, that eligibility runs for twelve continuous months unless an event occurs that would disqualify the child from coverage. Events that end the twelve-month period include Child Health Plus premiums not being timely paid or the child no longer residing in New York State, gaining access to or obtaining other health insurance coverage, or becoming eligible for Medicaid. Based on the date of your children's July application and eligibility, your children's eligibility for \$15.00 Child Health Plus plans should have ran continuously for a twelve-month period from August 1, 2017 to July 31, 2018, as long as disqualifying event did not occur. As discussed above you updated your NYSOH application to reflect an income that was Medicaid level had it been verified by NYSOH. As a result, your children's eligibility in the \$15.00 Child Health Plus plan would not have been continued for the full 12 months because becoming eligible for Medicaid is a disqualifying event.

Since the December 8, 2017 eligibility redetermination notice properly stated that, based on the updated information you provided, your children were eligible for Child Health Plus with a \$30.00 monthly premium per child, it is correct and is **AFFIRMED**.

Decision

The November 20, 2017 disenrollment notice is **AFFIRMED**.

The December 8, 2017 eligibility redetermination is **AFFIRMED**.

Effective Date of this Decision: February 02, 2018

How this Decision Affects Your Eligibility

Your children remain eligible for Child Health Plus plans, with a \$30.00 monthly premium per child.

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 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 November 20, 2017 disenrollment notice is AFFIRMED.

The December 8, 2017 eligibility redetermination is AFFIRMED.

Your children remain eligible for Child Health Plus plans, with a \$30.00 monthly premium per child.

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।

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 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&btumi 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.

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).