



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: AP000000025208

[REDACTED]

Dear [REDACTED],

On February 14, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2017 and November 23, 2017 eligibility redetermination 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: AP000000025208

[REDACTED]

## Issue

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

Did NY State of Health (NYSOH) properly redetermine that your children's Child Health Plus (CHP) subsidy ended effective December 1, 2017?

Did NYSOH properly redetermine that your children's re-enrollment in their CHP plan with financial assistance was effective January 1, 2018?

## Procedural History

According to your NYSOH account, you updated your children's application for health insurance on September 11, 2017. That day your children were found conditionally eligible for CHP and enrolled in a CHP plan with a monthly premium of \$15.00 each, effective October 1, 2017, as stated in the September 12, 2017 eligibility determination and plan enrollment notices.

Pursuant to NYSOH's request for proof of household income, you submitted one bi-weekly paystub for yourself and one weekly paystub for your spouse (see Documents [REDACTED] and [REDACTED]). These documents were invalidated by NYSOH on September 12, 2017.

On September 13, 2017, NYSOH issued a notice stating the documentation you submitted did not confirm the information in your application. You were required to provide additional documentation confirming your household income before November 10, 2017.

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No further documentation was received by NYSOH by November 10, 2017.

On November 16, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in a full price CHP plan, effective December 1, 2017. This was because state and federal data sources showed that your household income was more than \$115,120.00, which is more than the allowable income limit for the CHP program.

Also on November 16, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan with an increased monthly premium of \$241.49 each, effective December 1, 2017.

On November 23, 2017, NYSOH issued an eligibility determination notice, based on your November 22, 2017 updated application, stating that your children were eligible to enroll in CHP with a monthly premium of \$30.00 each, for a limited time, effective January 1, 2018. The notice directed you to provide documentation confirming your household income before January 20, 2018.

Also on November 23, 2017, a plan enrollment notice was issued confirming your children's enrollment in a CHP plan with a monthly premium of \$30.00 each, effective January 1, 2018.

On December 2, 2017, you spoke to NYSOH's Account Review Unit and appealed the termination of your children's CHP subsidy as of December 1, 2017, as well as the reinstatement of their CHP subsidy as of January 1, 2018, insofar as your children had a gap in financial assistance for the month of December 2017.

On February 14, 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.

## **Findings of Fact**

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

- 1) According to your NYSOH account and your testimony, you updated your children's NYSOH account on September 11, 2017. NYSOH could not verify the household income listed in their application, so they were conditionally enrolled into a CHP plan, pending submission of documents proving your household income before November 10, 2017.
- 2) You testified that you were aware at the time you applied for your children's health coverage for 2017, that you needed to supply proof of

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income documentation. You uploaded proof of income to your NYSOH account from your place of employment.

- 3) You testified you realized that only a portion of that documentation had successfully been uploaded to your account after you received the September 13, 2017 notice requesting additional proof of household income.
- 4) You testified that you mailed the additional documentation to satisfy that request to NYSOH on or about October 9, 2017. You have no proof of this mailing.
- 5) According to your NYSOH account, you did not provide any additional proof of household income by the due date of November 10, 2017.
- 6) According to your NYSOH account, NYSOH redetermined your children's eligibility for a CHP subsidy based on income information provided by federal and state data sources on November 15, 2017. This resulted in your children losing their CHP subsidy, effective December 1, 2017, as is stated in the November 16, 2017 eligibility determination notice.
- 7) You testified that you found out that your children lost their CHP subsidy when you received NYSOH's November 16, 2017 eligibility determination and plan enrollment notices. You testified you called NYSOH to rectify the situation immediately.
- 8) On November 21, 2017, NYSOH received your children's updated application for health insurance and you provided additional proof of household income. That day, your children's financial assistance was reinstated effective January 1, 2018.
- 9) You testified that you are seeking to have your children's financial assistance reinstated as of December 1, 2017, because you have full price premium bills for that month.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### **Child Health Plus**

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

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or below 400% of the federal poverty level (FPL) (New York Public Health Law (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 Public Health Law § 2511(2)(b)).

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)).

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))

Subject to certain exceptions, a child under the age of nineteen is presumptively eligible for a CHP subsidy, for a period of two months after the temporary eligibility enrollment period begins. Such temporary enrollments may be extended if an eligibility determination is not made within this two-month period through ***no fault of the applicant*** (emphasis added) (see *e.g.* 42 CFR § 457.355; 1920 A of the SSA, NY Public Health Law § 2511 *and see* State Plan Amendment (SPA) 14-0005, approved February 3, 2015 and effective January 1, 2014).

If NYSOH does not accept self-attestation of income, the State must verify the income of an individual by using the data sources and following standards and procedures for verification of financial eligibility consistent with the regulations (see 42 CFR § 457 (d), *see also* NY Public Health Law § 2511 (6)(a) *giving the Commissioner broad discretion in “mechanisms for eligibility determinations” for CHP*).

### Child Health Plus

The “period of eligibility” for CHP 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)).

“A State must specify a method for determining the effective date of eligibility for CHP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHP 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 CHP

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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. SPA NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your children's CHP subsidy terminated effective December 1, 2017.

An individual requesting financial assistance to help pay for the cost of coverage provided through NYSOH is required to attest to his or her household's projected annual income. For individuals seeking enrollment in CHP, NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their income information is accurate.

If NYSOH cannot verify an individual's attestation, it must provide the individual with notice of the inconsistency and allow the applicant time to submit satisfactory documentation.

In the eligibility determination issued on September 11, 2017, you were advised that your children were eligible for CHP for a limited time, and that you needed to confirm your household income with documentary proof before November 10, 2017.

Although you initially submitted financial documentation to prove your household income on September 11, 2017, these documents were invalidated by NYSOH on September 12, 2017, because they were not for four consecutive weeks. As such, NYSOH issued a notice advising you that that you needed to confirm your household income with additional documentary proof before November 10, 2017 on September 13, 2017.

Because there was no timely response to this notice, your children's eligibility was redetermined based on information NYSOH received from state and federal data sources on November 15, 2017. Consequently, NYSOH determined your household income to be more than \$115,120.00. Since this amount is more than the allowable income limit for a CHP subsidy based on your household size, NYSOH terminated your children's financial assistance, effective December 1, 2017.

However, you testified that upon receipt of the September 13, 2017 notice requesting additional proof of income, you realized that your income documentation did not successfully upload to your NYSOH account. Since you testified that you received this notice, it is determined that NYSOH properly

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notified you that you needed to submit additional proof of income documentation to verify your children's eligibility and to ensure your children's financial assistance would continue.

Nonetheless, you also testified that you mailed the additional documentation to NYSOH on or about October 9, 2017. However, you are unable to provide any evidence to prove this and the credible evidence of the record reflects that no additional documentation to prove your household income was received by NYSOH by the due date of November 10, 2017.

Therefore, it is concluded that you failed to provide sufficient documentation in a timely manner on your children's behalf, and this was the sole cause of your children being children losing their CHP subsidy. As such, the November 16, 2017 eligibility determination notice is correct and must be AFFIRMED.

The second issue under review is whether NYSOH properly redetermined that your children's re-enrollment in their CHP plan with financial assistance was effective January 1, 2018.

You first updated your children's eligibility for financial assistance through NYSOH for 2017 on November 21, 2017, and re-enrolled your children into a CHP plan with a \$30.00 monthly premium that day. As such, your children's CHP subsidy was reinstated as of January 1, 2018, resulting in a gap in financial assistance for the month of December 2017.

Pursuant to the regulations, a child's period of eligibility for CHP 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 fifteenth of the month; applications received after the fifteenth day of the month will be processed for the first day of the second following month.

Since, you updated your children's application for health insurance on November 21, 2017, the resulting eligibility could not become effective until the first day of the second following month; that is on January 1, 2018.

Therefore, NYSOH's November 23, 2017 eligibility determination notice is AFFIRMED to the extent it states that your child's CHP subsidy was effective January 1, 2018.

## **Decision**

The November 16, 2017 and November 23, 2017 eligibility determination notices are AFFIRMED.



**Effective Date of this Decision:** February 22, 2018

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

This decision does not change your children's eligibility.

Your children's eligibility for financial assistance properly terminated effective December 1, 2017.

The effective date of your children's re-enrollment in their CHP plan with financial assistance is January 1, 2018.

## **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

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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 16, 2017 and November 23, 2017 eligibility determination notices are AFFIRMED.

This decision does not change your children's eligibility.

Your children's eligibility for financial assistance properly terminated effective December 1, 2017.

The effective date of your children's re-enrollment in their CHP plan with financial assistance is January 1, 2018.

## **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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