



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

## Notice of Decision

Decision Date: March 15, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025363

[REDACTED]

Dear [REDACTED],

On February 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's September 17, 2017 disenrollment, October 7, 2017 eligibility determination, and November 5, 2017 plan enrollment 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 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.

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## Decision

Decision Date: March 15, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025363



## Issues

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

Did NY State of Health properly determine your child was no longer eligible for Child Health Plus, effective October 1, 2017?

Did NY State of Health provide a timely determination of your child's eligibility for Medicaid as of October 7, 2017?

Did NY State of Health properly determine that your child's Child Health Plus plan began as of December 1, 2017?

## Procedural History

On January 6, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating your child was eligible for Child Health Plus at a cost of \$9.00 per month for a limited time, effective February 1, 2017. You enrolled your child in a Child Health Plus plan, effective January 1, 2017.

On September 15, 2017, NYSOH received your child's updated application for health insurance.

On September 16, 2017, NYSOH issued a notice stating more information was needed to make a determination because the income information in your application does not match what NYSOH received from state and federal data sources. The notice instructed you provide proof of your household income by September 30, 2017, to confirm your child's eligibility.

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On September 17, 2017, NYSOH issued a disenrollment notice stating your child's coverage would end on October 1, 2017. The notice stated this was because he was no longer eligible to enroll in his health plan.

On September 24, 2017, NYSOH received income documentation in the form of paystubs (see Document [REDACTED]).

On September 25, 2017, NYSOH invalidated those income documents.

On September 26, 2017, NYSOH issued a notice explaining the income documentation you provided NYSOH did not match what was obtained from state and federal data sources. You were asked to submit income documentation for your household by October 15, 2017.

On October 5, 2017, copies of your paystubs were uploaded to your NYSOH account (see Documents [REDACTED]).

On October 6, 2017, NYSOH updated your child's application for financial assistance.

On October 7, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus at a cost of \$9.00 per month, effective November 1, 2017.

On October 7, 2017, NYSOH issued a plan enrollment notice informing you that your child could now pick a plan.

On November 5, 2017, NYSOH issued a plan enrollment notice confirming your child's enrollment in a Child Health Plus plan on November 4, 2017, with a start date of December 1, 2017.

On November 17, 2017, NYSOH issued an eligibility determination notice stating your child was eligible for Child Health Plus at a cost of \$9.00 per month, effective December 1, 2017.

On November 18, 2017, NYSOH issued a plan enrollment notice stating your child's Child Health Plus plan was effective December 1, 2017.

On December 5, 2017, you contacted the NYSOH's Account Review Unit and requested an appeal of the start date of your child's Child Health Plus plan requesting it begin as of October 1, 2017, and not December 1, 2017.

On February 8, 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 for fifteen days for you to provide supporting income documentation.

On February 8, 2018, you uploaded copies of your Unemployment Insurance Benefits statements to your NYSOH account, which was made part of the record as "Appellant's Exhibit 1." The record was closed that day.

## Findings of Fact

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

- 1) According to your NYSOH account and testimony, you are appealing your enrollment start date of your child's Child Health Plus plan.
- 2) According to your NYSOH account, NYSOH received your child's updated application for financial assistance on September 15, 2017.
- 3) Your applications state you file your taxes as Head of Household and will claim your child as a dependent on your 2017 tax return. You testified this was correct.
- 4) You further testified you live with your domestic partner who files separately but is the child's father. Your child lives with you and your domestic partner.
- 5) The application on September 15, 2017, states your income was \$20,720.00 annually and your domestic partner's income was \$7,000.00 annually.
- 6) You submitted documentation of your paystubs on September 24, 2017, showing you received gross amounts of \$1,482.40 and \$1,355.01 on August 17 and 31, 2017, respectively (see Document [REDACTED]).
- 7) Your income documentation was invalidated on September 25, 2017. In a comment in your NYSOH account, a NYSOH representative indicated your paystubs were sufficient but that you were attesting to Unemployment Insurance Benefits and your domestic partner was showing a wage hit in the 2<sup>nd</sup> quarter of the year. By notice, you were instructed to provide income documentation showing this by October 15, 2017.
- 8) The same income documentation and paystub dates were uploaded to your NYSOH account on October 5, 2017 (see Documents [REDACTED]).
- 9) A NYSOH agent updated your application on October 6, 2017, and listed your annual household income as \$32,159.00 and your domestic partner's income as \$7,000.00.

- 10) According to your NYSOH account, your child was disenrolled from his Child Health Plus plan effective October 1, 2017.
- 11) According to your NYSOH account, you selected a Child Health Plus plan for your child on November 4, 2017.
- 12) You testified that you want your child's Child Health Plus plan to begin on October 1, 2017.
- 13) Your child was [REDACTED] at the time of your September 15, 2017 and October 6, 2017 applications.

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 Child Health Plus 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 Public Health Law § 2511(2)(a)(iii)).

To be eligible for Child Health Plus, the child:

- Must be under 19 years of age;
- Must be a New York State Resident;
- Must not have other health insurance coverage; and
- Must not be eligible for, or enrolled in, Medicaid

(NY Public Health Law § 2511(2)(a)-(e)).

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 \$20,420.00 for a three-person household (82 Federal Register 8831).

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

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and documentation and ending on the last day of the twelfth month following such date,” unless the Child Health Plus 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 [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] 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 Child Health Plus 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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### 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 State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), 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)). Child Health Plus follows the Medicaid rules regarding household composition.

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 is \$20,420.00 for a three-person household (82 Fed. Reg. 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).

## Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants who are an infant older than one year of age but younger than nineteen years of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(ii)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determine your child was no longer eligible for Child Health Plus, effective October 1, 2017.

Your child was first determined eligible for Child Health Plus and was enrolled in a plan as of January 1, 2017.

On September 15, 2017, NYSOH received an updated application for financial assistance with his health insurance.

According to your application that day, you expect to file a federal income tax return for the 2017 year as Head of Household and will claim your one child as a dependent. Your child lives with you and your domestic partner, the child's father.



When calculating household size for a child who is living with both parents but only be claimed by one parent as a tax dependent, the household consists of the child, both parents, and any siblings under the age of 19. Therefore, NYSOH determined your child's eligibility using a three-person household.

On your September 15, 2017 application, you attested to an expected household income of \$20,720.00 and your domestic partner had an income of \$7,000.00. The application also stated that your child is [REDACTED]. NYSOH relied upon this information.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$27,720.00 is 135.75% of the 2017 FPL for a three-person household, NYSOH properly found your child to be eligible for Medicaid based on your attested application.

Your child was placed in a pending Medicaid status, effective October 1, 2017, with proof of income requested by September 30, 2017, because your attested income in your application did not match the information NYSOH obtained from federal and state data sources.

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 child gains becomes eligible for Medicaid.

As a result of the September 15, 2017 application, your child was properly determined no longer eligible for Child Health Plus as he was now pending Medicaid effective October 1, 2017. Therefore, the September 17, 2017, disenrollment notice stating your child's Child Health Plus coverage would end on October 1, 2017 was proper and is AFFIRMED.

The second issue under review is whether NYSOH provided you with timely determination of your child's Medicaid eligibility as of October 7, 2017.

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.

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.

You updated your NYSOH account on September 15, 2017. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

On September 24, 2017 you provided copies of your paystubs showing you received gross amounts of \$1,482.40 and \$1,355.01 on August 17 and 31 respectively (see Document [REDACTED]).

Your income documentation was invalidated on September 25, 2017. The NYSOH representative in their comments stated your paystubs were sufficient, but that you were attesting to Unemployment Insurance Benefits and your domestic partner was showing a wage hit in the 2<sup>nd</sup> quarter. The date of your requested documentation was extended to October 15, 2017.

The same income documentation and paystub dates were uploaded to your NYSOH account on October 5, 2017 (see Documents [REDACTED]). A NYSOH agent reviewed this documentation and submitted a new application on your behalf on October 6, 2017.

Therefore, your application may be considered complete as of September 24, 2017, for purposes of issuing an eligibility determination.

For Medicaid, NYSOH must provide children younger than nineteen years of age notice of their eligibility determination within 30 days from the date of the application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility determination notice on October 7, 2017, that stated your child was ineligible for Medicaid and eligible for Child Health Plus, effective November 1, 2017. Since NYSOH issued an eligibility determination 13 days from the date your application was considered complete, the October 7, 2017 eligibility determination was timely issued.

The third issue under review is whether NYSOH properly determined that your child's enrollment in a Child Health Plus plan was effective December 1, 2017.

The record reflects that you contacted NYSOH on November 4, 2017, and enrolled your child in a Child Health Plus plan for an effective date of December 1, 2017.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Since the October 7, 2017 eligibility determination notice was timely issued, you were able to select a Child Health Plus plan for a November 1, 2017 start date. However, a plan was not selected until November 4, 2017, therefore, it would take effect on the first day of the next month following November; that is, on December 1, 2017.

Therefore, the November 5, 2017 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan would be effective December 1, 2017, was correct and must be AFFIRMED.

## **Decision**

The September 17, 2017, disenrollment notice stating your child's coverage would end on October 1, 2017, was proper and is AFFIRMED.

The October 7, 2017 eligibility determination was timely issued.

The November 5, 2017 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan would be effective December 1, 2017, was correct and must be AFFIRMED.

**Effective Date of this Decision:** March 15, 2018

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

Your child was no longer eligible for Child Health Plus effective October 1, 2017.

Your child's enrollment in his Child Health Plus plan was effective December 1, 2017.

## **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

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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
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## **Summary**

The September 17, 2017, disenrollment notice stating your child's coverage would end on October 1, 2017, was proper and is AFFIRMED.

The October 7, 2017 eligibility determination was timely issued.

The November 5, 2017 plan enrollment notice stating that your child's enrollment in his Child Health Plus plan would be effective December 1, 2017, was correct and must be AFFIRMED.

Your child was no longer eligible for Child Health Plus effective October 1, 2017.

Your child's enrollment in his Child Health Plus plan was effective December 1, 2017.

## **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)

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### 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&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.

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