



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: AP000000025759

[REDACTED]

Dear [REDACTED]

On February 15, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2017 eligibility determination and 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 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: March 15, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025759

[REDACTED]

Issues

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

Did NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective January 1, 2018?

Did NY State of Health properly determine your children were not eligible for help paying medical bills for November 1, 2017 through November 30, 2017, because the program they were eligible for cannot pay for any care they received in the past?

Procedural History

On October 18, 2017, NY State of Health (NYSOH) issued an eligibility determination notice, based on your October 17, 2017 application, stating that your children were eligible to enroll in Child Health Plus with a \$45.00 monthly premium each, effective December 1, 2017.

On December 13, 2017, NYSOH received your children's updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating your two children were eligible for Child Health Plus for a cost of \$45.00 per month each, effective January 1, 2018. You also enrolled your children in a Child Health Plus plan that day with a January 1, 2018 start date.

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Also on December 13, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your children's Child Health Plus plan insofar as it did not begin December 1, 2017.

On December 14, 2017, NYSOH issued an eligibility determination notice stating your two children were eligible for Child Health Plus for a cost of \$45.00 per month each, effective January 1, 2018.

On December 14, 2017, NYSOH issued a plan enrollment notice, based on your plan selection for your children on December 13, 2017, confirming they were enrolled in a Child Health Plus plan with a start date of January 1, 2018.

On December 14, 2017, NYSOH issued a notice stating your two children's request for help paying medical bills for November 1, 2017 through November 30, 2017 was denied. The notice stated this was because the program they were eligible for cannot pay for any care they received in the past.

On February 15, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing you testified you are seeking a November 1, 2017 start date for your children or for them to be determined eligible for help paying medical bills for that month. The record was developed during the hearing and held open for you to provide supporting documentation and for the Hearing Officer to review any calls made on October 17, 2017.

On February 15, 2018, NYSOH received a three-page fax with your supporting documentation which was made part of the record as Appellant's Exhibit 1. The record was closed on March 8, 2018, the recorded telephone call that took place on October 17, 2017, was reviewed.

Findings of Fact

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

- 1) You testified that you are appealing only your children's eligibility for and enrollment in health coverage for November 2017.
- 2) You submitted an application to NYSOH for financial assistance on October 17, 2017.
- 3) On October 17, 2017, your children were determined eligible to enroll in a Child Health Plus plan, effective December 1, 2017.
- 4) You testified you spoke with a NYSOH agent over the telephone on October 17, 2017, to update your children's application.

- 5) No plan selection was made on October 17, 2017.
- 6) According to your NYSOH and testimony, you enrolled your children into a Child Health Plus plan on December 13, 2017.
- 7) You testified that you need your children's Child Health Plus plan to begin on November 1, 2017, because your children's Child Health Plus plan outside of NYSOH ended on October 31, 2017.
- 8) A review of the recording of a telephone call made to NYSOH on October 17, 2017, indicates you started the call by explaining you were trying to renew your children's Child Health Plus plan for the new year. The NYSOH agent updated the information in your application and determined your children were eligible to enroll in Child Health Plus for a limited time pending income documentation. The NYSOH agent asked if you wanted to change your children's plan and you answered yes. The agent said you were unable to pick a plan because you needed to send documents to confirm your income by December 16, 2017. The agent then told you they would still have the Child Health Plus plan for one month until you sent in your documentation. The agent then ended the telephone call without enrolling your children in a plan.
- 9) The application that was submitted on December 13, 2017, stated you were looking for help paying for medical bills for your two children for the month of November 2017.
- 10) You testified that you expect to file your 2017 federal income tax return as married filing jointly with two dependents.
- 11) Your children are [REDACTED] and [REDACTED].
- 12) You testified your only source of income is your husband's employment.
- 13) You provided copies of your husband's paystubs, dated November 3, 10, 17, and 24, 2017, for gross pay amounts of \$625.00 each (see Appellant's Exhibit 1, [REDACTED] and Document [REDACTED]).
- 14) You testified that you do not plan on taking any deductions on your tax return.
- 15) Your application states your children reside with you and your spouse in Suffolk County, NY

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

Applicable Law and Regulations

Child Health Plus

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)).

“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 e.g. 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 federal poverty level (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 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 is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

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).

Household Composition

Generally, a child who is claimed as a tax dependent by their custodial parent has the same household size as the parent that is claiming them (42 CFR § 435.603(f)(2)).

Retroactive Medicaid

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of an initial application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 USCA § 1396A(34); 42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan was effective January 1, 2018.

You testified that you contacted NYSOH on December 13, 2017, and enrolled your children into a Child Health Plus plan.

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 between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Since your children's enrollment was submitted on December 13, 2017, their plan would take effect the first day of the first month following December; that is, on January 1, 2018.

However, the record shows you submitted a previous application, on October 17, 2017. Your children were determined eligible to enroll in a Child Health Plus plan effective December 1, 2017 based on this application, but no plan selection was made on the date of your application. You testified you contacted NYSOH October 17, 2017, to update your children's application and to enroll them in Child Health Plus for the upcoming coverage year.

A review of the recorded telephone call made by you to NYSOH on October 17, 2017, indicates you explained to the NYSOH agent you were trying to renew your

children's Child Health Plus plan for the new coverage year through NYSOH. The NYSOH representative updated the information in your application and determined your children were eligible to enroll in Child Health Plus for a limited time pending income documentation. The NYSOH agent asked if you wanted to change your children's plan and you answered yes. The agent said you were unable to pick a plan because you needed to send documents to confirm your income by December 16, 2017. The agent then told you your children would still have their Child Health Plus plan for one month until you sent in your documentation. The agent then ended the telephone call without enrolling your children in a plan.

Since a NYSOH agent incorrectly denied you the ability to enroll your children temporarily in a Child Health Plus plan pending the receipt of income documentation, your children would have been enrolled in a plan as of December 1, 2017.

Therefore, the December 14, 2017 plan enrollment notice stating that your children's enrollment in their Child Health Plus plan was effective January 1, 2018, is MODIFIED to state their enrollment start date is December 1, 2017.

The second issue under review is whether NYSOH properly determined your children were not eligible for help paying medical bills from November 1, 2017 through November 30, 2017, because the program they were eligible for could not pay for any care they received in the past.

You expect to file your taxes with a tax filing status of married filing jointly and claim your two children as dependents on your tax return. Generally, a child who is claimed as a tax dependent by their custodial parent has the same household size as the parent that is claiming them. Therefore, your children are in a four-person household for purposes of this analysis.

You submitted an application for financial assistance on December 13, 2017, and requested help in paying for medical bills from November 1, 2017 through November 30, 2017.

When an individual files an initial application for Medicaid, his or her eligibility for retroactive Medicaid depends on the date of application. To this end, it does not matter whether or not that initial application resulted in Medicaid going forward. Instead, an individual, who has filed an initial application for Medicaid through NYSOH, has the right to be evaluated for Medicaid for the three months before the month of his or her application.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's initial application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid in November 2017, your children would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$3,157.00 per month. There is no indication in the record that your children would not have been eligible for Medicaid based on non-financial criteria during November 2017 as their prior Child Health Plus coverage had ended October 31, 2017. Therefore, the analysis turns to the financial requirements.

You provided copies of your husband's paystubs, dated November 3, 10, 17, and 24, 2017, for gross pay amounts of \$625.00 each (see, Appellant's Exhibit 1, [REDACTED] and Document [REDACTED]). Therefore, the record indicates that in the month of November 2017, your household's income was \$2,500.00.

Since your household income of \$2,500.00 was less than the \$3,157.00 monthly Medicaid limit for November 2017, your children may be eligible for Medicaid for that month. Therefore, the December 14, 2017 eligibility determination notice is RESCINDED.

Since the record now contains a more accurate representation of what your household income was for the month of November 2017, your case is RETURNED to NYSOH to consider your request for retroactive coverage for your two children for the month of November 2017, based on a household size of four people and household monthly income of \$2,500.00, for children residing in Suffolk County, NY.

Decision

The December 14, 2017 enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective January 1, 2018, is MODIFIED to state December 1, 2017.

The December 14, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for your two children for the month of November 2017 based on a household size of four people and household income of \$2,500.00 residing in Suffolk County, NY.

Effective Date of this Decision: March 15, 2018

How this Decision Affects Your Eligibility

The effective start date of your children's Child Health Plus plan is December 1, 2017.

This is not a final determination of your children's eligibility for retroactive Medicaid for the month of November 2017. Your case is being sent back to NYSOH to consider your request and notify you once a determination has been made.

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 December 14, 2017 enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan was effective January 1, 2018, is MODIFIED to state December 1, 2017.

The December 14, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to consider your request for retroactive coverage for your two children for the month of November 2017 based on a household size of four people and household income of \$2,500.00 residing in Suffolk County, NY.

The effective start date of your children's Child Health Plus plan is December 1, 2017.

This is not a final determination of your children's eligibility for retroactive Medicaid for the month of November 2017. Your case is being sent back to NYSOH to consider your request and notify you once a determination has been made.

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&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).