



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

Notice of Decision

Decision Date: February 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025799

[REDACTED]

[REDACTED]

On February 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2017 eligibility determination and December 5, 2017 enrollment confirmation 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 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 20, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025799

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) provide a timely determination of your child's Child Health Plus eligibility as of December 1, 2017?

Did NYSOH properly determine that your child's eligibility for his Child Health Plus plan was effective December 1, 2017?

Procedural History

On August 22, 2017, you updated your child's application for financial assistance with health insurance.

Also on August 22, 2017, you faxed income documentation to NYSOH.

On August 23, 2017, NYSOH issued a notice stating that the income information in your application did not match what NYSOH had received from state and federal data sources and that additional information was needed in order to determine your child's eligibility for financial assistance. This notice directed you to submit documentation of your household's income by September 6, 2017.

On August 31, 2017, the income documentation you faxed to NYSOH was uploaded to your NYSOH account.

On September 1, 2017, NYSOH reviewed the income documentation you submitted and determined that this was insufficient to resolve the inconsistency in your account.

On September 2, 2017, NYSOH issued a notice stating that the income documentation you submitted did not confirm the information in your application. This notice directed you to submit additional proof of documentation by September 6, 2017.

No additional documentation was received by September 6, 2017.

On September 18, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible to purchase a qualified health plan at full cost through NYSOH, effective November 1, 2017.

On December 4, 2017, you updated your child's application for financial assistance with health insurance.

On December 5, 2017, NYSOH issued a notice of eligibility determination stating that your child was eligible for Child Health Plus, effective January 1, 2018.

On December 14, 2017, you spoke to NYSOH's Account Review Unit and appealed insofar as your child's Child Health Plus plan was effective January 1, 2018 and not October 1, 2017.

On December 15, 2017, NYSOH issued an enrollment confirmation notice stating that your child was enrolled in a Child Health Plus plan with a plan enrollment start date of January 1, 2018.

On February 13, 2018, you had a telephone hearing with a Hearing Officer from the NYSOH 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) You testified that you are seeking for your child's Child Health Plus plan to begin on October 1, 2017 rather than January 1, 2018, as your child has medical bills for the month of November 2017.
- 2) Your NYSOH account reflects that you first updated your account on August 22, 2017.
- 3) Your NYSOH account reflects that on August 22, 2017, your child was [REDACTED].

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

- 4) You testified that your child's mother updated the application on August 22, 2017. You further testified that she was advised over the phone, that she would need to submit proof of your household's income and she faxed income documentation to NYSOH.
- 5) On August 22, 2017, four of your paystubs and four of your child's mother's paystubs were faxed to NYSOH. These paystubs were uploaded to your NYSOH account on August 31, 2017. The four of your paystubs which were submitted were for pay periods July 17, 2017 to July 23, 2017; July 24, 2017 to July 30, 2017; July 31, 2017 to August 6, 2017; and August 7, 2017 to August 13, 2017. The four of your child's mother's paystubs were for pay dates July 7, 2017, July 21, 201, August 4, 2017, and August 18, 2017.
- 6) You testified that you are paid on a weekly basis and your child's mother is paid on a biweekly basis.
- 7) On September 1, 2017, NYSOH reviewed the income documentation you submitted on August 22, 2017 and determined that this was insufficient proof of your household income. This was because your child's mother submitted 2 out dated paystubs and your paystubs had the pay date cut off, and the required documentation was four consecutive paystubs dated within 30 days of the application.
- 8) On September 2, 2017, NYSOH issued a notice advising you that additional income documentation was needed to determine your child's eligibility for financial assistance.
- 9) You testified that you could not recall whether you had elected to receive notices from NYSOH via regular mail or electronic mail, however, you testified that you have never received any regular mail from NYSOH.
- 10) Your NYSOH account reflects that you have elected to receive all of your notices from NYSOH via electronic mail.
- 11) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that you needed to provide income documentation in order for your child's eligibility to be determined.
- 12) You testified that you did not receive any electronic alerts regarding any notice in your NYSOH account telling you that the income documentation you submitted was insufficient and that additional income documentation was required.
- 13) No additional income documentation was submitted.

- 14) On September 17, 2017, NYSOH redetermined your child's eligibility for financial assistance. As a result, your child was found eligible to purchase a qualified health plan at full cost.
- 15) You testified that in November 2017, you took your child to the doctor, at which time you were advised that he did not have coverage.
- 16) On December 4, 2017, you updated your child's application for financial assistance. As a result of that application, your child was found eligible for Child Health Plus. You selected a Child Health Plus plan for enrollment for your child that day.
- 17) NYSOH uploaded an evidence packet to your NYSOH account. Contained within that evidence packet under the heading of "electronic notice requirement" is a three-page memorandum dated August 21, 2017. The memorandum sets forth the federal requirements regarding use of electronic communications and asserts that NYSOH is in compliance with federal regulation and guidance on the use of electronic notices. The memorandum asserts that "the electronic notification rules do not require that exchanges track and monitor consumers actual receipt of electronic notices".
- 18) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the September 2, 2017 notice stating that the income documentation you submitted did not confirm the information in your account and that additional documentation was required to determine your child's eligibility.

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

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).

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).

Child Health Plus – Income Verification

NYSOH is required to verify the eligibility of an applicant for CHP subsidy payments, which includes verifying the applicant’s household income. If NYSOH is unable to verify the applicant’s household income using available data sources, then NYSOH must request additional information from the applicant. NYSOH must provide the applicant with a reasonable period of time to furnish such information (42 CFR § 457.380; 42 CFR § 435.952(c)).

Timely Notice of Child Health Plus 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 a child at least one year of age but younger than 19 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)). NYS has elected to use a common application for Medicaid and Child Health Plus, therefore the timeliness standards for Child Health Plus determinations are the same as those for Medicaid determinations (see State Plan Amendment NY-CSPA-19, approved March 22, 2012 and effective November 11, 2011).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices,

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).

NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

Legal Analysis

The first issue is whether NYSOH provided you with a timely determination of your child's Child Health Plus eligibility as of January 1, 2018.

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 child's application for financial assistance with health insurance on August 22, 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 household income.

Also on August 22, 2017, you faxed four of your consecutive weekly paystubs and four of your spouse's consecutive biweekly paystubs.

NYSOH determined that these documents were insufficient because your paystubs had the pay date cut off. However, the pay period is still clearly visible. The pay period confirms that these are four consecutive weekly paychecks from the four pay periods immediately preceding the application. NYSOH determined that your child's mother's paystubs were insufficient as two of the paystubs were outdated. However, the paystubs clearly indicate that your child's mother was paid on a biweekly basis, and these paystubs represented the four biweekly pay periods immediately preceding the application.

Therefore, your child's application was complete as of August 22, 2017.

NYSOH must provide applicants who are a child at least one year of age but younger than 19 years of age notice of their eligibility determination within 30 days from the date of the completed 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 has never determined your child's eligibility based on the application which was completed as of August 22, 2017, therefore, there was no timely eligibility determination notice issued based on this application.

The second issue is whether NYSOH properly determined that your child's eligibility for Child Health Plus was effective January 1, 2018.

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.

You submitted sufficient documentation of your household's income on August 22, 2017. Had NYSOH properly verified your income documentation, your child's eligibility could have been determined as soon as August 22, 2017. Had NYSOH issued an eligibility determination on August 22, 2017, you would have been able to select a Child Health Plus plan for your child as early as that day.

Were you able to select a Child Health Plus plan for your child as of August 22, 2017, your child's enrollment in his Child Health Plus plan would have taken effect on the first day of the second month following after August 2017; that is, on October 1, 2017.

Therefore, the December 5, 2017 eligibility determination and the December 5, 2017 enrollment confirmation are MODIFIED to state that your child was eligible for and enrolled in his Child Health Plus plan effective October 1, 2017.

Your case is RETURNED to NYSOH to enroll your child in his Child Health Plus plan as of October 1, 2017.

Decision

The December 5, 2017 eligibility determination notice is MODIFIED to state that your child was eligible for Child Health Plus effective October 1, 2017.

The December 5, 2017 enrollment confirmation notice is MODIFIED to state that your child was enrolled in his Child Health Plus plan effective October 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan as of October 1, 2017.

Effective Date of this Decision: February 20, 2018

How this Decision Affects Your Eligibility

Your child's eligibility for and enrollment in his Child Health Plus plan should have begun as of October 1, 2017.

Your case is being sent back to NYSOH to enroll your child in his Child Health Plus plan as of October 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 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 5, 2017 eligibility determination notice is MODIFIED to state that your child was eligible for Child Health Plus effective October 1, 2017.

The December 5, 2017 enrollment confirmation notice is MODIFIED to state that your child was enrolled in his Child Health Plus plan effective October 1, 2017.

Your child's eligibility for and enrollment in his Child Health Plus plan should have begun as of October 1, 2017.

Your case is being sent back to NYSOH to enroll your child in his Child Health Plus plan as of October 1, 2017.

Your case is RETURNED to NYSOH to enroll your child into his Child Health Plus plan as of October 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)

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 srε wo, frε 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).