



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

Notice of Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025930

[REDACTED]

Dear [REDACTED],

On March 2, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 20, 2017 eligibility determination and enrollment confirmation 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 12, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000025930

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your children's eligibility for, and enrollment in, their Child Health Plus (CHP) coverage, with premium assistance, was effective February 1, 2018?

Procedural History

On December 9, 2017, you updated your application for financial assistance through NYSOH for 2018. You also uploaded documentation to your NYSOH account that day.

On December 10, 2017, NYSOH issued a notice of eligibility determination, based on your December 9, 2017 application, stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, and your children were eligible to enroll in CHP with a \$9.00 monthly premium each for a limited time, effective January 1, 2018. The notice further directed you to submit documentation of your household income by February 7, 2018, on behalf of your children, and March 9, 2018 on behalf of you and your spouse.

Also on December 10, 2017, NYSOH issued a notice of enrollment, based on your plan selection on December 9, 2017, stating that you and your spouse were enrolled in an Essential Plan, and your children were enrolled in a CHP plan, beginning January 1, 2018.

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On December 11, 2017, NYSOH reviewed your income documentation and redetermined your household's eligibility.

On December 12, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in a full cost qualified health plan (QHP), and your children were eligible to enroll in CHP at full cost, effective January 1, 2018. The notice also stated that you, your spouse, and your children did not qualify for Medicaid, CHP premium assistance, the Essential Plan, or tax credits because your household income of \$105,935.04 was over the allowable income limits for those programs.

Also on December 12, 2017, NYSOH issued a disenrollment notice stating that you and your spouse were disenrolled from your Essential Plan, effective January 1, 2018.

That same day, NYSOH issued a notice of enrollment confirmation, confirming your children were enrolled in their CHP plan with a monthly premium of \$232.21 each, effective January 1, 2018.

On December 18, 2017, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that you and your spouse were eligible for the Essential Plan with a \$20.00 monthly premium for a limited time, and your children were eligible to enroll in CHP with a \$9.00 monthly premium each for a limited time, effective February 1, 2018.

Also on December 18, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of you and your spouse's coverage, as well as the start date of your children's CHP premium assistance, insofar as they did not begin on January 1, 2018.

On December 19, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to enroll in the Essential Plan with a \$20.00 monthly premium for a limited time, effective February 1, 2018, and your children were eligible to enroll in CHP with a \$9.00 monthly premium each for a limited time, effective February 1, 2018. The notice directed you to submit documentation of your household income by February 16, 2018 on behalf of your children, and by March 18, 2018 on behalf of you and your spouse.

On December 19, 2017, you again updated your NYSOH application.

On December 20, 2017, NYSOH issued notice of eligibility determination stating that you and your spouse were eligible to receive up to \$624.00 per month in APTC, and eligible to receive cost-sharing reductions if you enrolled in a silver level QHP, effective February 1, 2018. The notice further stated that your children were eligible to enroll in CHP with a \$15.00 monthly premium each, effective February 1, 2018.

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Also on December 20, 2017, NYSOH issued a notice of enrollment confirmation, confirming that your children were enrolled in a CHP plan with a \$15.00 monthly premium each, beginning February 1, 2018.

On December 21, 2017, NYSOH issued a notice of enrollment confirmation confirming your children's enrollment in their CHP plan, and confirming you and your spouse's enrollment in a bronze level QHP with the application of your APTC to the monthly premium, beginning February 1, 2018.

On March 2, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you clarified that you are appealing only to have your children's CHP premium assistance backdated to January 1, 2018 so that you can be reimbursed for the full cost premiums you paid, and that you are not appealing the start date of you and your spouse's eligibility or coverage. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you are appealing only the start date of your children's \$15.00 CHP premium, in that you want their premium assistance applied to January 2018
- 2) You testified that you updated your NYSOH application online for health insurance in December 2017.
- 3) Your NYSOH account confirms that you initially updated your account on December 9, 2017, and you and your spouse were found eligible for the Essential Plan, and your children were found eligible for CHP with a \$9.00 monthly premium each.
- 4) You testified that, when you updated your application, the system asked you to submit income documentation, so you uploaded your 2016 income tax return, as you and your spouse are self-employed, and you expected your 2017 and 2018 income amounts to be similar to what you made in 2016.
- 5) Your NYSOH account reflects that, on December 9, 2017, you uploaded a copy of your 2016 federal income tax return (IRS Form 1040), which reflected an adjusted gross income of \$56,775.00 (Document [REDACTED]).

- 6) Your NYSOH account reflects that, on December 11, 2017, a NYSOH agent reviewed your tax return and used it to update the income information in your application. The agent changed you expected annual income from \$48,600.04 to \$105,935.04.
- 7) Your NYSOH account reflects that NYSOH redetermined your eligibility on December 12, 2017 utilizing the income figure arrived at by the NYSOH agent, and you and your spouse and children were found to be ineligible for any financial assistance from NYSOH.
- 8) You testified that you received the December 12, 2017 notice stating that you and your spouse were eligible to enroll in a full cost QHP, and your children were eligible to enroll in full cost CHP, around December 15, 2017.
- 9) You testified that you received the notice on a Friday, so you called NYSOH the following Monday or Tuesday to find out what happened.
- 10) You testified that the person you spoke to updated your NYSOH application with you, and you and your spouse and children were found eligible for financial assistance again as of February 1, 2018.
- 11) You testified that the person you spoke with from NYSOH looked at your income documentation and acknowledged that the income entered by NYSOH was not correct, but told you that they only thing you could do to address the problem was to file an appeal.
- 12) Your NYSOH account reflects that you updated your application again on December 19, 2017, and your children were found eligible for CHP with a \$15.00 monthly premium.
- 13) You testified that you want your children's premium assistance backdated to January 1, 2018, as you paid the full CHP premiums for the month of January 2018, and would like to be reimbursed for the difference between the \$15.00 premium and the full cost premium.

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

Applicable Law and Regulations

Child Health Plus

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL §

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2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (NY PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be “eligible for medical assistance”; that is, must not be eligible for Medicaid (NY PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child’s family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is \$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)).

The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than \$54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY PHL § 2510(9)(d)(iv)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL, but no more than \$135.00 per month per family (NY PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL, but no more than \$180.00 per child (NY PHL § 2510(9)(d)(vi)).

In an analysis of CHP 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 Federal Register 8831).

Child Health Plus Enrollment Effective Dates

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

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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 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).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children’s eligibility for CHP premium assistance began on February 1, 2018.

The State of New York has provided that 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 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

You updated your NYSOH application on December 18, 2017 and December 19, 2017, and your children were found eligible for premium assistance as of February 1, 2018. Ordinarily, this would be the correct effective date of their coverage, as a child becomes eligible on the first day of the second month following the date of application, when the application is received after the 15th of the month.

However, your children were initially found eligible for premium assistance effective January 1, 2018, as stated in the December 10, 2017 eligibility determination notice. The only reason you had to update your application again on December 18 and 19, 2017 was that your children had been removed from their premium assistance for the month of January 2018, after NYSOH redetermined their eligibility.

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Your children's eligibility for CHP, as stated in the December 10, 2017 notice, was limited because NYSOH needed income documentation to confirm the information you put in your application. You submitted income documentation the same day as your application (December 9, 2017), and NYSOH reviewed the documentation on December 11, 2017.

Though it is appropriate for NYSOH to update the income information in an application based on documentation provided, when such documentation was required to confirm eligibility, NYSOH must do so in an accurate way. The record reflects that you submitted a 2016 income tax return showing that your adjusted gross income in that year was \$56,775.00. It is not necessary for the Appeals Unit to address whether this was sufficient income documentation, as NYSOH chose to accept the documentation as acceptable proof of your household income. As such, NYSOH should have adjusted your expected annual income to \$56,775.00 (the amount listed on the tax return), and not \$105,935.04, as there was no basis for NYSOH to infer that this was your income from the documentation provided.

Had NYSOH entered the correct income information, your children would have remained eligible for a CHP subsidy. As the income entered into the application should have been \$56,775.00, or 230.79% of the 2017 FPL, your children should have been eligible for CHP with a \$15.00 monthly premium each, effective January 1, 2018.

Therefore, the December 20, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for CHP with a \$15.00 monthly premium each, effective January 1, 2018.

Likewise, the December 20, 2017 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their CHP plan with a \$15.00 monthly premium each, beginning January 1, 2018.

Your case is RETURNED to NYSOH to backdate your children's CHP premium assistance, and to facilitate a reimbursement of the excess premiums you paid for their January 2018 coverage.

Decision

The December 20, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for CHP with a \$15.00 monthly premium each, effective January 1, 2018.

The December 20, 2017 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their CHP plan with a \$15.00 monthly premium each, beginning January 1, 2018.

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Your case is RETURNED to NYSOH to backdate your children's eligibility for premium assistance to January 1, 2018, and to facilitate the reimbursement by your children's CHP plan of the excess premium payments you paid for their January 2018 coverage.

Effective Date of this Decision: March 12, 2018

How this Decision Affects Your Eligibility

Your children's eligibility for CHP with a \$15.00 monthly premium each should have started on January 1, 2018.

Your case is being sent back to NYSOH so that their CHP premium assistance can be backdated to January 1, 2018.

NYSOH will facilitate the reimbursement by your children's CHP plan of the excess premiums you paid for your children's coverage in the month of January 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:

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).

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):

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- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 20, 2017 eligibility determination notice is MODIFIED to state that your children were eligible for CHP with a \$15.00 monthly premium each, effective January 1, 2018.

The December 20, 2017 enrollment confirmation notice is MODIFIED to state that your children were enrolled in their CHP plan with a \$15.00 monthly premium each, beginning January 1, 2018.

Your case is RETURNED to NYSOH to backdate your children's eligibility for premium assistance to January 1, 2018, and to facilitate the reimbursement by your children's CHP plan of the excess premium payments you paid for their January 2019 coverage.

Your children's eligibility for CHP with a \$15.00 monthly premium each should have started on January 1, 2018.

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Your case is being sent back to NYSOH so that their CHP premium assistance can be backdated to January 1, 2018.

NYSOH will facilitate the reimbursement by your children's CHP plan of the excess premiums you paid for your children's coverage in the month of January 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 okyer& 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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