

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: AP000000026545

[REDACTED]

Dear [REDACTED],

On March 5, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 27, 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 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: AP000000026545



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, a Child Health Plus plan with a \$45.00 monthly premium each, was effective February 1, 2018?

Procedural History

On September 25, 2017, you submitted an application for health insurance on behalf of your children.

On September 26, 2017, NYSOH issued a plan enrollment notice confirming that your children were enrolled in a Child Health Plus (CHP) plan with \$45.00 monthly premium each, beginning November 1, 2017.

On October 1, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP with a \$45.00 monthly premium each, for a limited time. The notice directed you to provide proof of your household income by November 24, 2017, to confirm your children's eligibility and, if you missed this deadline, they might lose their insurance or receive less help paying for their coverage.

No updates were made to your account by November 24, 2017. As a result, on November 29, 2017, NYSOH submitted an application on your children's behalf using available federal and state data sources to verify your household income.

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On November 30, 2017, NYSOH issued an eligibility determination notice stating that your children were newly eligible to purchase a CHP at full cost or a Child-Only qualified health plan, effective January 1, 2018. The notice stated that this was because federal and state data sources showed your household income was more than \$98,400.00, which was above the allowable income range for CHP subsidy for a household of your size.

Also on November 30, 2017, NYSOH issued a plan enrollment notice confirming your children were enrolled in a CHP plan with a \$241.49 monthly premium each.

On December 26, 2017, NYSOH received your updated application for health insurance.

On December 27, 2017, NYSOH issued an eligibility determination notice confirming that your children were enrolled in a CHP plan with \$45.00 monthly premium each, beginning February 1, 2018. The notice further directed you to provide proof of your household income by February 24, 2018 to confirm your children's eligibility and, if you missed this deadline, they might lose their insurance or receive less help paying for their coverage.

Also on December 27, 2017, NYSOH issued a plan enrollment notice confirming that your children were enrolled in a CHP plan with \$45.00 monthly premium each, beginning February 1, 2018.

On December 30, 2017, you spoke with NYSOH's Account Review Unit and appealed the level of your children's CHP full cost premium for the month of January 2018.

On March 5, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) According to your NYSOH account and your testimony, you receive all notices from NYSOH by electronic mail alert.
- 2) You testified that you do not recall whether you received an electronic alert regarding notices in your NYSOH account in September 2017 or October 2017.
- 3) You testified that you have not received any notices from NYSOH by regular mail.

- 4) You testified that you discovered your children's CHP premium increased in late December 2017, when you received a bill in the regular mail from their CHP plan for the full premium payment amount.
- 5) You testified that you paid the full premium amount of \$241.49 for each of your children for January 2018, because you did not want your children to lose health insurance coverage.
- 6) You testified that you contacted NYSOH after receiving the bill from your children's CHP plan and updated their application.
- 7) Your NYSOH Account reflects that NYSOH received your updated application on December 26, 2017.
- 8) You testified that you would like your children's premium for January 2017 changed to \$45.00 each, and to be reimbursed for the difference you paid for the full cost CHP plan that month.
- 9) 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".
- 10) NYSOH has submitted no evidence that an electronic alert was sent to you regarding the October 1, 2017 eligibility determination notice.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data from agency sources that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

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)).

Child Health Plus

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

CHP is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

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

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (42 CFR § 600.330(e); 42 CFR § 435.918(b)(4)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children's enrollment in their CHP plan with a \$45.00 monthly premium each was effective February 1, 2018.

You originally submitted an application for health insurance for your children on September 25, 2017. However, the income information entered into that application did not match federal and state data sources.

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.

In an attempt to resolve the income inconsistency, on October 1, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible to enroll in CHP with a \$45.00 monthly premium each, for a limited time, beginning November 1, 2017. That notice stated this was because NYSOH required additional income information to verify your children's eligibility, and further directed you to submit proof of your household income by November 24, 2017.

Since there was no timely response to this notice, on November 29, 2017, NYSOH submitted an application on your children's behalf using available federal and state data sources to verify your household income.

However, you testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you did not recall receiving any electronic alert regarding the notice that directed you to update the information in your NYSOH account. You credibly testified that you discovered that your children's CHP premium increased when you received a bill from their CHP plan in the regular mail. You testified that you did not receive any notices from NYSOH by regular mail. There is no evidence in your account showing that any email alert was sent to you regarding the need to renew your application, that any such electronic notice failed, or that the notice was later sent to you by regular mail.

Therefore, it is concluded that NYSOH did not give you the required notice to you that you needed to update your account.

You first updated your children's eligibility for financial assistance through NYSOH on December 26, 2017, and therefore we must assume that this is the information that would have been used had you been timely informed of the need to update your account, as stated in the October 1, 2017 eligibility determination notice.

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).

Therefore, the December 27, 2017 eligibility determination notice is MODIFIED to state that your children's eligibility for CHP with a \$45.00 monthly premium each, was effective January 1, 2018.

The December 27, 2017 plan enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan with a \$45.00 monthly premium each, was effective January 1, 2018.

Decision

The December 27, 2017 eligibility determination notice is MODIFIED to state that your children's eligibility for CHP with a \$45.00 monthly premium each, was effective January 1, 2018.

The December 27, 2017 plan enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan with a \$45.00 monthly premium each, was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate correcting your children's eligibility and enrollment in CHP with the appropriate premium amount, to the appropriate date as noted above.

This Decision has no effect on any eligibility determination or plan enrollment notices issued by NYSOH after December 27, 2017.

Effective Date of this Decision: March 12, 2018

How this Decision Affects Your Eligibility

Your children's eligibility and enrollment in their CHP plan, with a \$45.00 monthly premium each, should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH to enroll children in CHP, and in their CHP plan with a \$45.00 monthly premium each, as of January 1, 2018.

You are responsible for paying each of your children's \$45.00 monthly premium to their CHP plan for the month of January 2018.

Any reimbursement or credit from the full January 2018 premium payment you made can be reconciled with the CHP plan.

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 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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 27, 2017 eligibility determination notice is MODIFIED to state that your children's eligibility for CHP with a \$45.00 monthly premium each, was effective January 1, 2018.

The December 27, 2017 plan enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan with a \$45.00 monthly premium each, was effective January 1, 2018.

Your case is RETURNED to NYSOH to facilitate correcting your children's eligibility and enrollment in CHP with the appropriate premium amount, to the appropriate date as noted above.

This Decision has no effect on any eligibility determination or plan enrollment notices issued by NYSOH after December 27, 2017.

Your children's eligibility and enrollment in their CHP plan, with a \$45.00 monthly premium each, should have been effective as of January 1, 2018.

Your case is being sent back to NYSOH to enroll children in CHP, and in their CHP plan with a \$45.00 monthly premium each, as of January 1, 2018.

You are responsible for paying each of your children's \$45.00 monthly premium to their CHP plan for the month of January 2018.

Any reimbursement or credit from the full January 2018 premium payment you made can be reconciled with the CHP plan.

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 مجانًا.

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 sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyerE 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).