STATE OF NEW YORK
DEPARTMENT OF HEALTH
PO Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: March 23, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027169

[redacted]

Dear [redacted],

On March 7, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2017 eligibility determination 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
  PO 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(b).

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 23, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000027169

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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 two children were eligible for Child Health Plus at full cost during the month of January 2018?

Procedural History

On October 9, 2017, NYSOH received an update to your application for financial assistance with health insurance.

On October 10, 2017, NYSOH issued an eligibility determination notice stating that your two children were eligible for CHP for limited time with a monthly premium of $45.00, effective November 1, 2017. You were requested to provide income documentation for your household to NYSOH by December 8, 2017 to confirm your children's eligibility.

Also on October 10, 2017, NYSOH issued an enrollment notice confirming your selection of a CHP plan as of October 5, 2017, with such coverage beginning November 1, 2017. The monthly premium for each child's coverage was $45.00.

On December 13, 2017, NYSOH redetermined your household's eligibility for financial assistance with health insurance.

On December 14, 2017, NYSOH issued an eligibility determination notice stating that your two children were eligible for CHP at full cost, effective January 1, 2018.

Also on December 14, 2017, NYSOH issued an enrollment notice confirming your children's enrollment in their CHP plan as of December 13, 2017, with such coverage beginning November 1, 2017. The monthly premium for each child's coverage was $232.21.

On December 29, 2017, NYSOH received an update to your application for financial assistance with health insurance.

December 30, 2017, NYSOH issued an eligibility determination notice stating that your children were eligible for CHP at a monthly premium of $45.00, for a limited time, effective February 1, 2018.

On January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed the premium amount for your children's Child Health Plus plan during January 2018 insofar as it was $232.21 each, and not $45.00.

On March 7, 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 support the following findings of fact:

1) By notice dated October 10, 2017, NYSOH determined that your children were conditionally eligible for CHP, with a $45.00 per month premium, effective November 1, 2017. You were directed to provide proof of income by December 8, 2017.

2) You did not provide proof of income by December 8, 2017.

3) You testified, and the record reflects, that you receive alerts regarding your notices from NYSOH by electronic mail.

4) You testified that you do not recall receiving any e-mail alerts around October 10, 2017 from NYSOH, regarding notices requesting additional documentation by December 8, 2017 to confirm your children's eligibility for CHP.

5) On December 13, 2017, NYSOH redetermined your children's eligibility for Child Health Plus including a monthly premium at full cost of $232.12, effective January 1, 2018 because you had not provided proof of income.

6) The record reflects that on December 29, 2017, NYSOH received your children's updated application for health insurance.

7) On December 30, 2017, NYSOH issued a notice stating that your children were conditionally eligible for Child Health Plus with a $45.00 monthly premium each, effective January 1, 2018. The notice directed you to provide proof of income by February 27, 2018.

8) On January 12, 2018, you spoke to NYSOH's Account Review Unit and appealed the premium amount for your children's Child Health Plus plan during the month of January 2018 insofar as it was $232.12 per month each and not $45.00 each.

9) You testified that you are filing your 2017 tax return with a tax filing status of married filing jointly. You testified that you will have two dependents on that tax return.

10) You testified that you were seeking to have your children's coverage at the $45.00 premium level reinstated for the month of January 2018.

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

Applicable Law and Regulations

Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (*see* 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

Child Health Plus

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 § 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)).

In an analysis of Child Health Plus eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR § 435.4). On the date of your application, that was the 2016 FPL, which was $24,600.00 for a four-person household (80 Federal Register 3236, 3237).

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 two children were eligible for Child Health Plus at full cost during the month of January 2018.

By notice dated October 10, 2017, NYSOH determined that your children were conditionally eligible for CHP, with a $45.00 per month premium, effective November 1, 2017. You were directed to provide proof of income by December 8, 2017.

When NYSOH cannot verify information that is required to make an eligibility determination, it must notify the applicant and allow the applicant time to submit satisfactory documentation.

On December 14, 2017, NYSOH issued an eligibility determination notice stating that your children were redetermined eligible for CHP at full cost, $232.12 per month, effective January 1, 2018. This was because you did not send in documentation to confirm the household income in your application. The notice stated that the premium was determined based on information from state and federal data sources.

The record reflects that you did not provide the necessary income documentation to confirm your children's eligibility by the December 8, 2017 due date. You testified that this was because you did not receive the eligibility determination notice requesting such documentation.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you did not remember receiving any electronic alert regarding the renewal notice, which would have directed you to update your account. There is no evidence in the file that NYSOH sent you an electronic alert notifying you of a new notice available in your account on October 10, 2017, and there is no evidence that any written notice was sent after the failure of any email alert.

NYSOH is required to send applicants proper notice for applicants to take appropriate action. Since there is no evidence that NYSOH sent you an email alert, and you testified that you did not remember receiving one, there is insufficient evidence in the record that NYSOH provided you with proper notice by electronic means that you needed to update your NYSOH account for your children to continue to receive financial assistance and health insurance through NYSOH.

You first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on January 29, 2018, 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 renewal notice.

Therefore, the December 14, 2017 eligibility determination notice stating that your children were eligible for CHP at full cost, effective January 1, 2018 is RESCINDED.

Furthermore, the December 30, 2017 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2018, your children were eligible to enroll in CHP with a $45.00 premium per month, and the December 30, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their Child Health Plus plan is effective January 1, 2018.

Decision

The December 14, 2017 eligibility determination notice is RESCINDED.

The December 30, 2017 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2018, your children were eligible to enroll in CHP with a $45.00 premium per month

The December 30, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan is effective January 1, 2018.

Effective Date of this Decision: March 23, 2018

How this Decision Affects Your Eligibility

Your children were eligible for CHP coverage effective January 1, 2018, with a $45.00 monthly premium.

If You Disagree with this Decision (Appeal Rights)

If applicable, if you think a portion of your appeal should not be dismissed, you can ask us to vacate, or cancel, this dismissal. You must ask us in writing within 30 days after the date on this notice, showing good cause as to why the dismissal should be vacated. NYSOH's Appeals Unit will review your request. If your request is approved, another hearing will be scheduled for you. If your request is denied, NYSOH will tell you in writing. If you do not respond to the dismissed portion of your appeal within 30 days, your appeal will remain dismissed, and NYSOH will take no further action on your appeal.

Insofar as your case was decided, the 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
  PO Box 11729
  Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 14, 2017 eligibility determination notice is RESCINDED.

The December 30, 2017 notice of eligibility redetermination is MODIFIED to state that, effective January 1, 2018, your children were eligible to enroll in CHP with a $45.00 premium per month

The December 30, 2017 enrollment notice is MODIFIED to state that your children's enrollment in their CHP plan is effective January 1, 2018.

Your children were eligible for CHP coverage effective January 1, 2018, with a $45.00 monthly premium.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[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).

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。我们可以为您免费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 महत्त्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई नि:शुल्क 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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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