

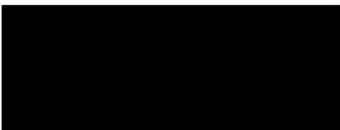


STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: May 10, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000028472



Dear [REDACTED]

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's eligibility determination concerning your children's premium for Child Health Plus.

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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

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Issues

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

Did NY State of Health (NYSOH) properly determine, in the October 3, 2017 notice of eligibility determination, that your children were eligible to enroll in a Child Health Plus (CHP) plan with a monthly premium of \$60.00 each, effective November 1, 2017?

Did NYSOH properly determine, in the October 21, 2017 notice of eligibility determination, that your children's correct monthly premium was \$30.00 each, effective no earlier than December 1, 2017?

On December 21, 2017, did NYSOH properly change your children's monthly premium back to \$60.00 each?

Did NYSOH properly determine, in the January 5, 2018 notice of eligibility determination, that your children's correct monthly premium was \$30.00 each, effective no earlier than February 1, 2018?

Procedural History

On October 2, 2017, NYSOH unilaterally updated your application and redetermined your family's eligibility, shortly after you uploaded income documentation.

On October 3, 2017, NYSOH issued a notice stating that your children were eligible, for a limited time, to enroll in a CHP plan with a monthly premium of

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\$60.00 each, effective November 1, 2017, noting that, “The household income listed in your application is \$74,392.30.”

Also on October 3, 2017, NYSOH issued a notice of enrollment confirmation, confirming your children were enrolled in a CHP plan with a \$60 monthly premium each.

On October 20, 2017, NYSOH redetermined your children’s eligibility, and on October 21, 2017, issued a notice stating that your children were eligible to enroll in a CHP plan with a monthly premium of \$30.00 each, effective December 1, 2017.

On December 21, 2017, for reasons that are not clear, NYSOH redetermined your children’s eligibility, based on the incorrect annual household income of \$74,392.30. NYSOH also failed to issue a formal notice of eligibility determination as it was required to do; in failing to issue an eligibility determination, NYSOH also failed to advise you of your appeal rights.

On December 22, 2017, NYSOH issued an enrollment notice, stating that your son’s premium had changed to \$60.00 per month, while your daughter’s premium remained at \$30.00 per month. The notice reiterated the start date of coverage for each child, February 1, 2017 and September 12, 2017, but failed to explain when the change in premium was to take effect.

On January 4, 2018, you updated your application, and on January 5, 2018, NYSOH found that your children were eligible to enroll in a CHP plan with a monthly premium of \$30.00 each, effective February 1, 2018.

Also on January 5, 2018, NYSOH issued an enrollment notice, confirming that your children were enrolled in a CHP plan with a monthly premium of \$30.00 each. The notice stated that the enrollment start date was September 1, 2017, but failed to explain when the changes in premium were effective.

On January 18, 2018, you contacted NYSOH, complaining about the change in the CHP premiums.

On January 27, 2018, NYSOH issued a notice advising you that your children’s enrollment in their CHP plan ended effective December 31, 2017, because you had failed to timely pay premiums.

On February 5, 2018, you spoke to NYSOH’s Account Review Unit and appealed the change in your children’s premium for CHP from \$30.00 to \$60.00 per month each, and the gap in coverage for January 2018 caused by the confusion in premiums owed.

In a note dated April 6, 2018, a NYSOH representative indicated that the premium charged for the Child Health Plus plan beginning in November 2017 was incorrect, and that NYSOH had corrected the premium to \$30.00 per month per child, effective November 1, 2017.

On April 17, 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) You uploaded income documentation on October 2, 2017.
- 2) Based on that documentation, NYSOH incorrectly calculated your annual expected household income to be \$74,392.30, and unilaterally updated your account to reflect that increase.
- 3) Because of that miscalculation, NYSOH issued a new notice of eligibility determination, and improperly increased your children's monthly premium from \$30.00 per month each to \$60.00 each.
- 4) NYSOH has since conceded that a miscalculation was made, and decreased your annual expected household earnings for 2018 to \$55,000.00, which resulted in a finding that the Child Health Plus premium for each of your children should be only \$30.00 per month, effective November 1, 2017.
- 5) You testified that because of the repeated errors by NYSOH, your children's plan felt that you had not timely paid premiums, and disenrolled your children from coverage, resulting in a gap of coverage for January 2018. You requested in January 2018 that your children's reenrollment in coverage be backdated to January 1, 2018, but this backdating request was not granted until April 2018. In the meantime, your children were not able to use the coverage in January 2018, and the backdate was of no use to you.
- 6) You testified that you were not asked in April 2018 if you still needed the backdate, and that you are seeking for the enrollment for January 2018 to be cancelled, and a refund of premiums paid by you for that month, as well as a refund of the double payments you made for November and December 2017.

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

Applicable Law and Regulations

CHP Premiums

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 Public Health Law (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 \$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 family (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 \$28,780.00 for a five-person household (82 Federal Register 8831).

Legal Analysis

The issues under review all relate to the level of premiums your children should have been eligible for, from November 2017 onward, and the gap in coverage for January 2018.

A review of NYSOH's records shows that NYSOH has conceded that it miscalculated your annual household income, and that the premiums should not have been increased from \$30.00 to \$60.00, effective November 1, 2017. In fact, your children's eligibility should have remained at \$30.00 per month each, from November 1, 2017 onward, and NYSOH has since backdated your premium eligibility for a \$30.00 monthly premium per child to November 1, 2017. However,

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in the meantime, repeated errors and miscommunications led your plan to misstate the premiums owed for your children's coverage, and eventually your children were disenrolled from coverage due to the nonpayment of premiums.

You requested in January 2018 that the coverage be reinstated. However, NYSOH did not act to reinstate your children's coverage for January 2018 until April of 2018, and it failed to ask you at that time if you still wanted reinstatement for January 2018. You were not able to benefit from the coverage in January because your doctor had told you your children were not covered.

The Appeals Unit finds that your children's monthly premium for CHP coverage was \$30.00 per month, effective November 1, 2017. Because you have testified that you paid double that amount for November and December 2017, your case is RETURNED to the Plan Management Unit to assist you in obtaining a reimbursement of any excess premium paid.

Additionally, the Appeals Unit finds that it was improper for NYSOH to reinstate coverage for January 2018, resulting in an additional expense for you in premiums for that month, when you had already been deprived of the benefit you should have derived from having that coverage. Having waited three months to resolve the issue, NYSOH should have asked if you still required reinstatement for January 2018.

Decision

The Appeals Unit finds that your children were enrolled in CHP coverage from November 1, 2017 to December 31, 2017, with a \$30.00 monthly premium each.

NYSOH improperly reinstated coverage for January 2018 after it was too late to be of benefit to you or your children. Therefore, the Appeals Unit finds that your children should not be enrolled in CHP coverage for January 2018, through no fault of your own, and their coverage resumed on February 1, 2018 with a \$30.00 monthly premium each.

Your case is RETURNED to the Plan Management Unit of NYSOH to assist you in correcting your coverage, and to recoup any overpayment of premiums.

Effective Date of this Decision: May 10, 2018

How this Decision Affects Your Eligibility

Your children's premium for November and December 2017 should have been \$30.00 monthly each, and they will not have coverage for January 2018.

This matter will be referred to the Plan Management Unit of NYSOH to assist you in correcting any errors in your coverage.

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 appeal 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

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- 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
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The Appeals Unit finds that your children were enrolled in CHP coverage from November 1, 2017 to December 31, 2017, with a \$30.00 monthly premium each.

NYSOH improperly reinstated coverage for January 2018 after it was too late to be of benefit to you or your children. Therefore, the Appeals Unit finds that your children should not be enrolled in CHP coverage for January 2018, through no fault of your own, and their coverage resumed on February 1, 2018 with a \$30.00 monthly premium each.

Your case is RETURNED to the Plan Management Unit of NYSOH to assist you in correcting your coverage, and to recoup any overpayment of premiums.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 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।

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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 मदद 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. y&b&tumi 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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