



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

## Notice of Decision

Decision Date: April 25, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028714

[REDACTED]

On April 9, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 24, 2017 eligibility determination and enrollment confirmation notices, and the January 18, 2018 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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## Decision

Decision Date: April 25, 2018

NY State of Health Account ID: [REDACTED]  
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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 that your children were eligible to enroll in Child Health Plus at full cost, effective February 1, 2018?

Did NYSOH properly determine that your children were eligible for and enrolled in a Child Health Plus plan with a \$45.00 monthly premium, effective March 1, 2018?

## Procedural History

On October 19, 2017, you updated your household's application for financial assistance.

On October 20, 2017, NYSOH issued a notice of eligibility determination, stating that your children were eligible for Child Health Plus with a \$45.00 monthly premium, for a limited time, effective December 1, 2017. The notice further stated that you needed to provide proof of income for your children by December 18, 2017.

Also on October 20, 2017, NYSOH issued a notice of enrollment stating that your children were enrolled in a Child Health Plus plan beginning April 1, 2017.

No documentation was received by December 18, 2017.

On December 23, 2017, NYSOH re-determined your children's eligibility for financial assistance with health insurance.

On December 24, 2017, NYSOH issued a notice of eligibility determination, stating that your children were eligible for a full-pay Child Health Plus plan, effective February 1, 2018. This was because federal and state data sources showed that your household income was more than \$98,400.00.

Also on December 24, 2017, NYSOH issued a notice of enrollment, confirming that your children were automatically enrolled in a Child Health Plus plan, at full cost, beginning February 1, 2018.

On January 17, 2018, you updated your application for financial assistance.

On January 18, 2018, NYSOH issued a notice of eligibility determination, based on your January 17, 2018 application. Insofar as it pertains to your children's eligibility, this notice stated that your children were eligible to enroll in a Child Health Plus plan with a \$45.00 monthly premium, effective March 1, 2018.

Also on January 18, 2018, NYSOH issued a notice of enrollment, based on your plan selection on January 17, 2018, stating that your children were enrolled in a Child Health Plus plan, beginning March 1, 2018.

On February 9, 2018, you spoke to NYSOH's Account Review Unit and appealed the Child Health Plus premium for the month of February 1, 2018; requesting that the \$45.00 monthly premium be made effective February 1, 2018.

On April 9, 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 testified that you are appealing your children's Child Health Plus premium increase from a \$45.00 monthly premium to a full cost premium for the month of February 2018.
- 2) The record reflects that you receive all of your notices from the NYSOH by regular mail.
- 3) You confirmed the address in your NYSOH account.

- 4) Your NYSOH account reflects that you updated your account on October 19, 2017 in order to apply for insurance for your spouse.
- 5) Based on your October 19, 2017 application, your children were found eligible for Child Health Plus, for a limited time, effective December 1, 2017 pending proof of your household income. You were asked to submit proof of household income by December 18, 2017.
- 6) You testified that you did not receive any notices stating that you needed to provide documentation of your household income.
- 7) No notices that were sent to the address listed on your NYSOH account have been returned as undeliverable.
- 8) You testified that you did not know that you needed to submit documentation until December when you received a notice in the mail regarding the increased premium cost.
- 9) You testified that once you learned that your children's Child Health Plus premium had increased, you contacted the plan, at which time you were advised that you failed to provide income documentation.
- 10) The record reflects that on December 23, 2017, the NYSOH system ran your household's eligibility and re-determined your children eligible for a full-pay Child Health Plus plan, effective February 1, 2018 stating that your income was above \$98,400.00.
- 11) Your NYSOH account reflects that your children were automatically enrolled into a full-pay Child Health Plus plan, effective February 1, 2018.
- 12) On January 17, 2018 you updated your application, specifically attesting to an annual household income of \$79,746.42.
- 13) Based on your January 17, 2018 application, your children were found eligible to enroll in a Child Health Plus plan with a \$45.00 monthly premium, beginning March 1, 2018. You enrolled your children in a plan that day.
- 14) You testified that you are seeking for your children's \$45.00 monthly premium to be reinstated for the month of February 2018.

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

## Applicable Law and Regulations

### 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)).

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)).

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 2017 FPL, which is \$24,600.00 for a four-person household (82 Fed. Reg. 8831).

“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 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).

### Verification Process

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 (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

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) 42 CFR § 435.952).

### **Legal Analysis**

The first issue is whether NYSOH properly determined that your children were eligible to enroll in Child Health Plus at full cost, effective February 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 NYSOH account on October 19, 2017. As a result, NYSOH asked that you submit additional documentation to confirm your household income by December 18, 2017.

You testified that you did not receive any notices stating that you needed to provide documentation of your household income. You testified that you did not know that you needed to submit documentation until December when you received a notice in the mail regarding the increased premium cost.

Your NYSOH account confirms, that you elected to receive notifications by regular mail. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable. You confirmed the address as listed in your NYSOH was correct.

Therefore, the record reflects that NYSOH properly notified you of your need to provide income documentation by December 18, 2017. NYSOH was then obligated to redetermine your children's eligibility using the information available to it once the deadline of December 18, 2017 had passed.

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).

As a result, the December 24, 2017, eligibility determination notice stating your children were eligible for a full-pay Child Health Plus plan, effective February 1, 2018, because federal and state data sources show that your income was more than \$98,400.00 was proper and is AFFIRMED.

The December 24, 2017, enrollment confirmation notice stating that your children were automatically enrolled in a full-pay Child Health Plus plan, effective February 1, 2018 is AFFIRMED.

The second issue is whether NYSOH properly determined that your children were eligible for and enrolled in a Child Health Plus plan with a \$45.00 monthly premium, effective March 1, 2018.

On January 17, 2018, you updated your NYSOH account. Specifically, you attested to an income of \$79,746.42 which is 324.17% of the federal poverty level for a four-person household. As a result, your children were found eligible for Child Health Plus with a \$45.00 monthly premium, effective March 1, 2018. Also on January 17, 2018 you selected a plan for your children.

The date on which a Child Health Plus plan and eligibility can take effect depends on the day a person selects the plan for enrollment. 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.

Since you updated the information in your account on January 17, 2018 and enrolled your children into a subsidized Child Health Plus plan, your children's \$45.00 Child Health Plus plan would properly start on the first day of the second month following January; that is March 1, 2018.

Therefore, the January 18, 2018 eligibility determination notice, insofar as it applies to your children's eligibility, stating that your children are eligible for a Child Health Plus plan with a \$45.00 monthly premium, effective March 1, 2018 is AFFIRMED.

Also, the January 18, 2018 enrollment confirmation notice stating that your children's enrollment in their Child Health Plus plan with a \$45.00 monthly premium, began March 1, 2018 is AFFIRMED.

## **Decision**

The December 24, 2017 eligibility determination notice is AFFIRMED.

The December 24, 2017 enrollment confirmation notice is AFFIRMED.



The January 18, 2018 eligibility determination notice is AFFIRMED insofar as it applies to your children's eligibility.

The January 18, 2018 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** April 25, 2018

## **How this Decision Affects Your Eligibility**

Your children were eligible for a full-pay Child Health Plus plan for the month of February 2018.

Your children's eligibility and enrollment in a Child Health Plus plan with a \$45.00 monthly premium began March 1, 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:

Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061

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).

- 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 December 24, 2017 eligibility determination is AFFIRMED.

The December 24, 2017 enrollment notice is AFFIRMED.

Your children were eligible for a full-pay Child Health Plus plan for the month of February 2018.

The January 18, 2018 eligibility determination notice is AFFIRMED insofar as it applies to your children's eligibility.

The January 18, 2018 enrollment confirmation notice is AFFIRMED.

Your children's eligibility and enrollment in a Child Health Plus plan with a \$45.00 monthly premium began March 1, 2018.

### **Legal Authority**

We are issuing this determination in accordance with 45 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).

**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 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.

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