



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

Notice of Decision

Decision Date: April 24, 2018

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000029406

[REDACTED]

[REDACTED],

On April 17, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 21, 2018 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
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.

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 Date: April 24, 2018

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000029406



Issue

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

Did New York State of Health (NYSOH) properly determine that your youngest child was eligible to enroll in a full-cost Child Health Plus plan or child-only qualified health plan, effective April 1, 2018?

Procedural History

On February 25, 2017, NYSOH issued an eligibility determination notice, based on your February 24, 2017 application, stating that your youngest child was eligible to enroll in Child Health Plus (CHP) with a \$60.00 monthly premium, effective April 1, 2017. This was based on your attested annual household income of \$90,000.00.

Also on February 25, 2017, NYSOH issued an enrollment notice, based on your plan selection on February 24, 2017, confirming that your youngest child was enrolled in a CHP plan with a \$60.00 monthly premium, and that his enrollment in the plan would start April 1, 2017.

On February 2, 2018, NYSOH issued a renewal notice stating that you must update your application between February 16, 2018, and March 15, 2018, in order to determine what coverage and financial assistance your family may be eligible for in the coming year.

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On February 20, 2018, NYSOH received your updated application for health insurance for your family. The household income attested to in that application was \$90,000.00. You also updated that application to indicate that you would only be claiming two of your three children on your income tax return.

On February 21, 2018, NYSOH issued an eligibility determination notice, based on your updated February 20, 2018 application, stating, in part, that your youngest child was eligible for a full-pay CHP plan or a child-only qualified health plan, effective April 1, 2018.

Also on February 21, 2018, NYSOH issued an enrollment notice, confirming that your youngest child was enrolled in a CHP plan with a \$232.21 monthly premium, and that this enrollment in the plan started April 1, 2018.

On February 26, 2018, you spoke to NYSOH's Account Review Unit and appealed that determination insofar as you were required to pay a full cost premium for your youngest child's CHP plan starting April 1, 2018.

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 testified that you are appealing only your youngest child's eligibility that required you to pay full cost CHP premium for him starting April 1, 2018.
- 2) According to your NYSOH account, on February 24, 2017, your youngest child was determined eligible for CHP and was subsequently enrolled in a CHP plan with a \$60.00 monthly premium starting April 1, 2017. This was based upon your indication that you claimed all three children as dependents with a household income of \$90,000.00.
- 3) On February 20, 2018 you updated your family's application to reflect that you were no longer claiming one of your children as a dependent, and your household income was attested to as \$90,000.00.
- 4) You testified that you expect to file your 2018 tax return with a tax filing status of head of household. You will claim two of your three children as dependents on that tax return.

- 5) You testified that one of your children now files his own tax return, and that you no longer claim him as a dependent on your taxes.
- 6) The application that was submitted on February 20, 2018 listed annual household income of \$90,000.00, consisting entirely of income you earn from your employment. You testified that this amount was correct.
- 7) You testified that you expect your income to increase by 1% this year.
- 8) You testified that you have obtained private loans for two of your children's college tuition, but are unsure if it will qualify as a deductible on your income tax return.
- 9) You testified that you are a single parent and have bills you would like taken into consideration in determining your youngest child's eligibility—specifically, your mortgage.
- 10) According to your NYSOH account and your testimony, your family lives in Nassau County.
- 11) You testified that you would like your youngest child to be eligible for financial assistance with his CHP plan.

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.

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)). 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)).

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 2018 FPL, which is \$20,780.00 for a three-person household (83 Fed. Reg. 2642).

Household Composition

For purposes of financial assistance, the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross federal taxable income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, deductions attributable to royalties, and certain retirement savings (26 USC § 62(a)). Living expenses, such as rent and utilities are not an allowable deduction in computing adjusted gross income (*id.*).

Home mortgage interest payments may be itemized on a Form 1040 Schedule A; however, these expenses are not used to compute adjusted gross income (26 USC § 163(h); Internal Revenue Service (IRS) Publication 936 (2016)).

Legal Analysis

The issue under review is whether NYSOH properly determined on February 20, 2018 that your youngest child was eligible for enrollment in a full cost CHP plan or child-only qualified health plan, effective April 1, 2018.

According to your NYSOH account and your testimony, you expect to file your 2018 income tax return as head of household and will claim two dependents on that tax return. You testified that you have three children but are only claiming two, because one of your children now files his own tax return. Therefore, your youngest child is in a three-person household.

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).

In your February 20, 2018 application, you attested to an expected household income of \$90,000.00. This consisted entirely of income you earn from your employment.

During the hearing, you testified that the amount you provided in your application was correct. However, you asked that your current expenses, which includes your mortgage, be considered when calculating your annual household income. Although the Internal Revenue Service rules allow for mortgage interest payments to be itemized on Form 1040 Schedule A, this expense is not used to compute adjusted gross income.

. Therefore, NYSOH correctly determined your household income to be \$90,000.00.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. On the date of your application, the relevant FPL was \$20,420.00 for a three-person household. Since \$90,000.00 is 433.11% of the 2018 FPL, it is over the allowable limit for financial subsidies for CHP.

Therefore, on February 20, 2018, NYSOH properly found your youngest child eligible to enroll only in a full price CHP plan or child-only qualified health plan, and was ineligible for a CHP subsidy.

Since the February 21, 2018 eligibility determination notice properly stated that, based on the information you provided and that was available in your account, your youngest child was eligible to enroll in a full price CHP plan or child-only qualified health plan, effective April 1, 2018, it is correct and is AFFIRMED.

Decision

The February 21, 2018 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: April 24, 2018

How this Decision Affects Your Eligibility

This decision does not change your youngest child's eligibility.

Your child was eligible to enroll in a full price CHP plan or child-only qualified health plan effective April 1, 2018.

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).

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 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).

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 February 21, 2018 eligibility determination notice is **AFFIRMED**.

This decision does not change your youngest child's eligibility.

Your youngest child was eligible to enroll in a full price CHP plan or child-only qualified health plan effective April 1, 2018.

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 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।

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 srε wo, frε 1-855-355-5777. ye&εtumi 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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