



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

Notice of Decision

Decision Date: May 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029519



Dear [REDACTED]

On May 1, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's February 22, 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 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: May 30, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000029519



Issue

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

Did NYSOH properly determine that your three children (children) were eligible for a full price Child Health Plus plan, effective April 1, 2018?

Procedural History

On December 15, 2016, NY State of Health (NYSOH) issued an eligibility determination notice, based on your December 14, 2016 application, stating that your children were eligible for Child Health Plus for a cost of \$15.00 per month each for a limited time, effective January 1, 2017. Your children were subsequently enrolled in a Child Health Plus plan for a total cost of \$45.00 per month, effective January 1, 2017.

On October 28, 2017, NYSOH issued a notice that it was time to renew your children's health insurance for 2018. That notice stated your children qualified for Child Health Plus at \$30.00 per month, per child, effective January 1, 2018. The notice stated your children were automatically enrolled in a Child Health Plus plan, effective January 1, 2018.

On November 18, 2017, NYSOH issued a plan enrollment notice stating your children were eligible for Child Health Plus for a cost of \$30.00 per month each, effective January 1, 2018.

On February 21, 2018, NYSOH redetermined your children's eligibility for financial assistance.

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On February 22, 2018, NYSOH issued an eligibility determination notice stating your children were eligible to purchase a qualified health plan at full cost, effective April 1, 2018. The notice stated state and federal data sources shows your household income was more than \$115,120.00.

On February 22, 2018, NYSOH issued a plan enrollment notice stating your children were enrolled in a Child Health Plus plan for a cost of \$232.21 per month, per child, effective April 1, 2018.

On February 28, 2018, you spoke to NYSOH's Account Review Unit and appealed the February 22, 2018 eligibility determination notice stating your children were eligible for a full cost Child Health Plus plan, effective April 1, 2018. You requested their eligibility be redetermined for financial assistance.

On March 9, 2018, NYSOH issued an eligibility determination notice stating your children were eligible for Child Health Plus for a limited time as they had been granted Aid to Continue until a decision was made on your appeal. The determination was effective April 1, 2018. A plan enrollment notice issued that same day confirmed their enrollments at full cost as of April 1, 2018.

On May 1, 2018, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and held open up to 15 days for you provide supporting documentation in the form of business records.

On May 14, 2018 two documents were viewable in your NYSOH account and have been incorporated into the record as Appellant's Exhibit 1 (see, Documents

Findings of Fact

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

- 1) You testified that you are appealing your children's full cost eligibility for Child Health Plus as determined in the February 22, 2018 notice.
- 2) Your NYSOH account shows your children were renewed for Child Health Plus for a cost of \$30.00 per month, per child, effective January 1, 2018. They were then enrolled in a plan automatically by NYSOH.
- 3) You testified that you believe the October 28, 2017 renewal notice stating your children were eligible for Child Health Plus for \$30.00 per month each was based on your adjusted gross income for 2015, which was \$67,080.00.

- 4) Your NYSOH account shows your children were redetermined eligible for a full cost Child Health Plus plan on February 21, 2018, using state and federal data sources.
- 5) Your NYSOH account "income details" as stated in your February 21, 2018 application show your household's federal poverty level was determined to be 446.99%.
- 6) Your application states that you will be filing your 2018 taxes as married filing jointly with three dependent children.
- 7) You testified that you base your projected income for 2018 from your tax return. You only filed a 2016 tax return and have yet to file your 2017 tax return at the time of your hearing.
- 8) On April 9, 2018, you provided a copy of your 2016 tax return which you testified was previously filed in October 2017. You then had it amended in April 2018 (see Document [REDACTED]).
- 9) Your 2016 tax return states your original adjusted gross income for that year was \$128,632.00. You then corrected the amount with the amended return at \$113,914.00.
- 10) You testified you believe your 2018 annual household income will be approximately \$113,914.00.
- 11) At the time of your application your children were ages [REDACTED] and [REDACTED].
- 12) Your application states your three children reside with you in [REDACTED], NY.

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

Applicable Law and Regulations

Household Composition

Generally, a child who is claimed as a tax dependent by their custodial parent has the same household size as the parent that is claiming them (42 CFR § 435.603(f)(2)).

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 Eligibility Period

The "period of eligibility" for Child Health Plus is "that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date," unless the Child Health Plus premiums are not timely paid, or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

"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 State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Child Health Plus Subsidy Payments

Child Health Plus 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 Child Health Plus 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 Child Health Plus 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 Child Health Plus 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 Child Health Plus 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 child (NY PHL § 2510(9)(d)(vi)).

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

On the date of your application, that was the 2018 FPL, which is \$29,420.00 for a five-person household (83 Fed. Reg. 2642).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children were eligible for a full price Child Health Plus plan effective April 1, 2018.

According to the record, you expect to file a joint federal income tax return for the 2018 tax year as married filing jointly and claim your three children as dependents. Therefore, your children are in a five-person household for purposes of this analysis.

Your children were originally automatically renewed for a Child Health Plus for a cost of \$30.00 per month each, effective January 1, 2018, and enrolled in a plan.

NYSOH redetermined your children's eligibility on February 21, 2018, using information it received from state and federal data sources. Your NYSOH account shows it determined your household to have a federal poverty level of 446.99%. You provided a copy of your 2016 tax return which shows you originally filed with an adjusted gross income of \$128,632.00 (see, Document [REDACTED])

The application also stated that your children were [REDACTED]. NYSOH relied upon this information it received from state and federal data sources.

A child is eligible to enroll in Child Health Plus 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 NYSOH submitted a new application on your behalf, the relevant FPL for 2018 was \$29,420.00 for a five-person household. Since and income of \$128,632.00 is 437.22% of the 2018 FPL, NYSOH properly found your children to be eligible for Child Health Plus at full cost. However, it appears NYSOH used the 2017 FPL which was \$28,780.00 to determine your children's eligibility to be 446.99%, as stated in your account. Despite this error, NYSOH correctly determined that, based on information available to it in February 2018, your children were still over the 400% FPL limit for individuals to receive a Child Health Plus subsidy payment.

During your hearing you testified that you filed an amended 2016 tax return in April 2018. The amended tax return stated your annual household income was \$113,914.00 (see Document [REDACTED]). Since the February 22, 2018 eligibility determination notice is no longer supported by the record, your case is RETURNED to NYSOH to redetermined your children's eligibility for Child Health Plus based on a five-person household with an annual household income for 2018 of \$113,914.00, effective April 1, 2018. NYSOH is directed to use the 2018 FPL for this determination and to notify you of the results.

Decision

The February 22, 2018 eligibility determination notice is no longer supported by the record.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for Child Health Plus based on a five-person household with an annual household income for 2018 of \$113,914.00, effective April 1, 2018. NYSOH is directed to use the 2018 FPL for this determination and to notify you accordingly.

Effective Date of this Decision: May 30, 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).

How this Decision Affects Your Eligibility

This decision is not a final determination of your children's eligibility for a subsidy payment through Child Health Plus.

Your case is being sent back to NYSOH to determine your eligibility based on the information you provided at the hearing. NYSOH will notify you of the results.

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.

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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 22, 2018 eligibility determination notice is no longer supported by the record.

Your case is RETURNED to NYSOH to redetermine your children's eligibility for Child Health Plus based on a five-person household with an annual household income for 2018 of \$113,914.00, effective April 1, 2018. NYSOH is directed to use the 2018 FPL for this determination and to notify you accordingly.

This decision is not a final determination of your children's eligibility for a subsidy payment through Child Health Plus.

Your case is being sent back to NYSOH to determine your eligibility based on the information you provided at the hearing. NYSOH will notify you of the results.

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 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 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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