



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

Notice of Decision

Decision Date: April 13, 2018

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000030216

[REDACTED]
[REDACTED]
[REDACTED]

On April 13, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 25, 2017 eligibility determination notice, December 25, 2017 disenrollment notice, March 28, 2018 eligibility determination notice and March 28, 2018 enrollment confirmation 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.

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DEPARTMENT OF HEALTH
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Decision

Decision Date: April 13, 2018

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000030216

[REDACTED]

Issues

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

Was your appeal of NY State of Health's December 25, 2017 eligibility determination notice and December 25, 2017 disenrollment notice timely?

Did NY State of Health properly determine that your two older children were eligible for Medicaid, effective January 1, 2018?

Did NY State of Health properly determine that your two older children were ineligible for Child Health Plus as of December 31, 2017, and disenrolled from their Child Health Plus plan as of January 31, 2018?

Procedural History

On January 14, 2017, NY State of Health (NYSOH) issued a notice of eligibility determination stating that your two older children were eligible for Child Health Plus with a \$45.00 monthly premium per child, effective February 1, 2017.

Also on January 14, 2017, NYSOH issued a notice of enrollment confirmation stating that your children were enrolled in a Child Health Plus plan with a plan enrollment start date of February 1, 2017.

On December 2, 2017, NYSOH issued a notice that it was time to renew your children's health insurance for the upcoming coverage year. That notice stated

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that based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for their health coverage, and that you needed to update your account by January 18, 2018 or your children were at risk of losing their health insurance coverage and, if applicable, any financial assistance.

On December 14, 2017, NYSOH received your updated application for health insurance for your children.

On December 25, 2017, NYSOH issued a notice of eligibility determination stating that your two older children were eligible for Medicaid, effective January 1, 2018, and that your two older children were no longer eligible for Child Health Plus as of December 31, 2017. The notice stated that your two older children were eligible for Medicaid because their household income of \$0.00 was at or below the allowable limit.

Also on December 25, 2017, NYSOH issued a disenrollment notice stating that your two older children's enrollment in their Child Health Plus plan would end as of January 31, 2018. This was because they were no longer eligible for Child Health Plus.

On March 12, 2018, you updated your children's application for financial assistance.

On March 13, 2018, NYSOH issued a notice of eligibility determination stating that your two older children were eligible for Medicaid, effective March 1, 2018.

On March 14, 2018, you spoke to NYSOH's Account Review Unit insofar as your children were no longer eligible for and enrolled in a Child Health Plus plan as of February 1, 2018.

On March 27, 2018, NYSOH redetermined your children's eligibility for financial assistance.

On March 28, 2018, NYSOH issued a notice of eligibility determination stating that your two older children were eligible for Child Health Plus with a \$45.00 monthly premium per child, effective May 1, 2018.

Also on March 28, 2018, NYSOH issued a notice of enrollment confirmation stating that your two older children were enrolled in a Child Health Plus plan with a plan enrollment start date of May 1, 2018.

On April 9, 2018, NYSOH received documentation from [REDACTED] requesting an expedited appeal because of his urgent medical issues.

On April 12, 2018, your request for an expedited hearing was approved.

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On April 13, 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 expect to file your 2018 tax return with a tax filing status of married filing jointly. You will claim your all three of your children dependents on that tax return.
- 2) The application that was submitted on December 24, 2017 listed annual household income of \$94,186.15, consisting of \$102,686.15 you earn from your employment less \$5,500.00 in business loss deductions and \$3,000.00 in capital loss deductions. You testified that this amount was correct at the time of that application.
- 3) At the time of your December 24, 2017 application, your children were [REDACTED] and [REDACTED].
- 4) Your application states, and you confirmed, that you household resides in [REDACTED].
- 5) You testified that on [REDACTED], you were advised by one of your middle child's medical providers that they did not accept Medicaid.
- 6) You testified that on February 9, 2018, you contacted NYSOH to find out why your older two children had Medicaid, when your youngest child still had Child Health Plus. You went on to testify that you were advised that the system was calculating your older two children's eligibility based on a household income of \$0.00.
- 7) The record reflects that on February 9, 2018, you contacted NYSOH. As a result, incident # [REDACTED] was created. Notes within this incident indicate that you were calling to find out why your two older children had Medicaid when your younger child had Child Health Plus, and that you were seeking for your two older children to have Child Health Plus coverage. Additional notes within this incident indicate that you called to follow-up on February 20, 2018, February 24, 2018, and March 2, 2018. Notes posted within this incident by NYSOH indicate that there was a defect associated with your account, and that a resolution was issued with regard to this incident on March 28, 2018.

- 8) You testified that you would like your two older children to be eligible for Child Health Plus, and not Medicaid, as of February 1, 2018. You explained that your middle child has medical bills for February 2018 that are not covered by Medicaid and that your middle child needs on-going services which are also not covered by Medicaid.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR §155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

However, where an appeal request is untimely, the appeal request may be considered valid if the applicant or enrollee sufficiently demonstrates within a reasonable timeframe as determined by NYSOH that failure to timely submit the appeal was due to exceptional circumstances and should not preclude the appeal (45 CFR §155.520(d)(2)(i)(D)).

Household Size – Children

In the case of an individual who expects to file a tax return, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to specific limitations, all persons whom such individual expects to claim as a tax dependent (42 CFR §435.603(f)(1)).

In the case of an individual who expects to be claimed as a tax dependent by another taxpayer, the household is the household of the taxpayer claiming such individual as a tax dependent (42 CFR §435.603(f)(2)).

Household Income

Household income is the modified adjusted gross income of every individual included in the individual's household (42 CFR §435.603(d)(1)).

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

Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In an analysis of Medicaid eligibility, the determination is based on the FPL "for the applicable budget period used to determine an individual's eligibility" (42 CFR

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§ 435.4). On the date of your application, that was the 2017 FPL, which is \$28,780.00 for a five-person household (82 Fed. Reg. 8831).

Legal Analysis

The first issue is whether your appeal of NY State of Health's December 25, 2017 eligibility determination notice and December 25, 2017 disenrollment notice was timely.

On December 25, 2017, NYSOH issued a notice of eligibility determination stating that your two older children were eligible for Medicaid, effective January 1, 2018. Also on December 25, 2017, NYSOH issued a disenrollment notice stating that your two older children's coverage in their Child Health Plus plan would end, effective January 31, 2018.

The record reflects that you first contacted NYSOH to file a formal appeal regarding the December 25, 2017 eligibility determination notice and December 25, 2017 disenrollment notice on March 14, 2018.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on your children being found eligible for Medicaid and disenrolled from their Child Health Plus plan as of January 31, 2018, an appeal should have been filed by February 23, 2018.

Although your appeal was untimely on its face, you contacted the NYSOH Account Review Unit on February 9, 2018 to request that your older two children be eligible for Child Health plus. As a result of this contact, incident # [REDACTED] was created. The notes within this incident indicate that you were advised that there was a defect on your account that was causing your older two children's household income to be listed as \$0.00. Additional notes within that incident reflect that you called NYSOH to follow-up on February 20, 2018, February 24, 2018, and March 2, 2018. Furthermore, this incident was not resolved until March 28, 2018.

As you contacted NYSOH on February 9, 2018 to request that your older two children be found eligible for Child Health Plus, which was within 60-days of the December 25, 2017 eligibility determination notice and disenrollment notice, you continued to follow-up with NYSOH regarding this incident, a formal resolution of this incident was issued on March 28, 2018, and you filed your formal request for an appeal within 60-days of filing the incident, your appeal was timely and will be addressed.

The second issue under review is whether NYSOH properly determined that your two older children were eligible for Medicaid.

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

In your December 24, 2017 application, you attested to an annual expected household income of \$94,186.15. The application also stated that your older two children are [REDACTED] and [REDACTED].

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Since \$94,186.15 is 327.26% of the 2017 FPL for a five-person household, NYSOH improperly found your two older children to be eligible for Medicaid.

The third issue is whether NYSOH properly determined that your two older children were ineligible for Child Health Plus, effective December 31, 2017, and disenrolled from their Child Health Plus plan, effective January 31, 2018.

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. Households with an income between 301% and 350% of the FPL are responsible for a \$45.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$28,780.00 for a five-person household. Since \$94,186.15 is 327.26% of the 2017 FPL, NYSOH improperly found your two older children to be ineligible for Child Health Plus, effective December 31, 2017.

Therefore, the December 25, 2017 eligibility determination notice and the December 25, 2017 disenrollment notice are RESCINDED.

As the record reflects that your two older children should not have been found eligible for Medicaid and ineligible for Child Health Plus, the March 28, 2018 eligibility determination notice and the March 28, 2018 enrollment confirmation notice are MODIFIED to state that your two older children were eligible for and enrolled in their Child Health Plus plan with a \$45.00 monthly premium per child effective February 1, 2018.

Your case is RETURNED to NYSOH to begin your two older children's enrollment in their Child Health Plus plan as of February 1, 2018.

Decision

The December 25, 2017 eligibility determination notice is RESCINDED.

The December 25, 2017 disenrollment notice is RESCINDED.

The March 28, 2018 eligibility determination notice and the March 28, 2018 enrollment confirmation notice are MODIFIED to state that your two older children are eligible for and enrolled in their Child Health Plus plan with a \$45.00 monthly premium per child, effective February 1, 2018.

Your case is RETURNED to NYSOH to begin your two older children's enrollment in their Child Health Plus plan as of February 1, 2018.

Effective Date of this Decision: April 13, 2018

How this Decision Affects Your Eligibility

NYSOH improperly determined that your two older children were eligible for Medicaid and ineligible for Child Health Plus.

Your case is being sent back to NYSOH to reinstate your two older children into their Child Health Plus plan as of February 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:

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

Summary

The December 25, 2017 eligibility determination notice is RESCINDED.

The December 25, 2017 disenrollment notice is RESCINDED.

NYSOH improperly determined that your two older children were eligible for Medicaid and ineligible for Child Health Plus.

The March 28, 2018 eligibility determination notice and the March 28, 2018 enrollment confirmation notice are MODIFIED to state that your two older children are eligible for and enrolled in their Child Health Plus plan with a \$45.00 monthly premium per child, effective February 1, 2018.

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Your case is RETURNED to NYSOH to begin your two older children's enrollment in their Child Health Plus plan as of February 1, 2018.

Your case is being sent back to NYSOH to reinstate your two older children into their Child Health Plus plan as of February 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।

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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 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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