



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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP00000005320

[REDACTED]

Dear [REDACTED],

On February 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 16, 2015 eligibility redetermination.

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(b).

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: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP00000005320

[REDACTED]

Issue

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

Did NY State of Health properly determine that you and your newborn child were no longer eligible for Medicaid, effective November 30, 2015?

Procedural History

On December 5, 2014, NY State of Health (NYSOH) issued an eligibility determination notice finding you eligible for Medicaid, effective December 1, 2014, because your reported household income of \$9,085.00 was below the allowable maximum income limit for that program.

On December 27, 2014, NYSOH issued an enrollment notice confirming your health insurance coverage with Medicaid Fee-For-Service as of December 1, 2014, and enrollment in a Medicaid Managed Care (MMC) plan with a start date of February 1, 2015.

On June 25, 2015, you updated your NYSOH application, reported the birth of your newborn child on June 17, 2015, added him to your application, and indicated that he needed health insurance coverage.

On June 26, 2015, NYSOH issued an eligibility redetermination notice stating that you were no longer eligible for Medicaid; but that your Medicaid coverage would continue until November 30, 2015. The eligibility was effective June 1,

2015. You were also asked to confirm your income by providing documentation before July 10, 2015.

On June 26, 2015, NYSOH issued an enrollment confirmation notice confirming your enrollment with UnitedHealthcare of New York, Inc., an MMC plan, effective February 1, 2015.

On June 26, 2015, NYSOH issued a letter asking for more information to confirm your household's income. You were asked to provide income documentation for your household by July 11, 2015.

You provided income documentation on June 26, 2015, which was verified by NYSOH that same day.

On June 27, 2015, an eligibility determination notice was issued finding you remained eligible for Medicaid, effective June 1, 2015, and your child conditionally eligible for Medicaid, effective June 1, 2015. The notice instructed you to provide documentation confirming your child's citizenship status and Social Security number by September 23, 2015.

On June 28, 2015, an enrollment notice was issued confirming your enrollment in your MMC plan, effective February 1, 2015. The notice also stated that you must pick a plan for your newborn child soon or one would be chosen for him and, in the meantime, he would have health insurance coverage with Medicaid Fee-For-Service as of June 1, 2015.

On September 18, 2015, NYSOH issued a renewal notice instructing you to update your NYSOH account by November 15, 2015, and informed you that, if you missed this deadline, the financial assistance you were currently receiving might end.

Your NYSOH account was not updated by November 15, 2015.

On November 17, 2015, NYSOH issued an eligibility redetermination notice stating that you did not qualify for financial assistance or to enroll in a qualified health plan because you did not respond to the renewal notice and did not complete your renewal within the required timeframe. The notice further stated that your eligibility would end effective November 30, 2015. The notice also stated that your newborn child did not qualify to enroll in NYSOH coverage because he had not provided a Social Security number and proof of citizenship status by the required deadline and did not respond to the renewal notice with the required timeframe. The notice stated his eligibility would end November 30, 2015 also.

On November 23, 2015, a disenrollment notice was issued ending your and your newborn child's coverage with UnitedHealthcare of New York, Inc., an MMC plan, effective November 30, 2015.

Also on November 23, 2015 you spoke with a representative from NYSOH's Account Review Unit and requested a telephone hearing insofar as you wanted coverage under your MMC plan for you and your child for the month of December, 2015. You also requested that your coverage under your MMC plan continue during the appeal process.

On November 24, 2015, an eligibility determination notice was issued finding you eligible to enroll in the Essential Plan effective January 1, 2016. You were asked to confirm your income by February 21, 2016.

On November 24, 2015, an enrollment confirmation notice was issued confirming your enrollment in the Essential Plan 1, with a \$20.00 premium per month effective January 1, 2016.

Also on November 24, 2015, a notice was issued stating that more information was needed to make a determination regarding your newborn child's eligibility for financial assistance. You were asked to submit income documentation for your household by December 9, 2015.

On December 15, 2015, NYSOH granted your request for aid to continue and put you and your newborn child back in your MMC plan, effective December 1, 2015 through June 30, 2016.

On December 17, 2015, as a result of your request for aid to continue being granted, NYSOH issued a cancellation notice stating that your Essential Plan coverage would terminate on January 1, 2016, the date of its planned inception.

On February 19, 2016, 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 were determined eligible for Medicaid as of December 1, 2014 and enrolled in an MMC plan, effective February 1, 2015.
- 2) Until you reported the birth of your child on June 25, 2015, you were listed as the only person on your NYSOH account, and there was no evidence

- to indicate you were pregnant. Your NYSOH application reflects that your child was born on June 17, 2015.
- 3) You are seeking insurance for yourself and your newborn child for the month of December 2015.
 - 4) On June 27, 2015, you were asked to provide documentation confirming your child's Social Security number and citizenship status by September 23, 2015.
 - 5) On September 18, 2015, NYSOH issued a renewal notice asking you to update information in your NYSOH Health account by November 15, 2015, so that you and your child's eligibility for financial assistance could be made in time for renewal.
 - 6) You testified that you did call in before the required deadlines but were unable to get through to a NYSOH representative.
 - 7) There is no evidence in the record that a call was received by NYSOH to update your application before September 23, 2015 or November 15, 2015.
 - 8) You testified and the record supports that you successfully updated your application for financial assistance on November 23, 2015, which included adding your spouse, providing your child's Social Security number and proof of his U.S. citizenship as a child born to parents who are U.S. citizens, and your household's annual income of \$35,000.00. Your NYSOH account reflects that these changes were processed by NYSOH that same day.
 - 9) You and your child were disenrolled from your coverage under your MMC plan, effective November 30, 2015.
 - 10) At all times relevant, your child resided with you in Suffolk County, New York.
 - 11) In your November 23, 2015 application, you reported that you expect to file your 2015 and 2016 federal tax returns as married filing jointly and to claim your child as a dependent on those returns.
 - 12) In your November 23, 2015 application, you attested to an annual household income of \$35,000.00, consisting solely of your spouse's income.

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

Applicable Law and Regulations

Medicaid Continuous Coverage

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

Newborn Child – Effective Date of Coverage for Medicaid

NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. (42 CFR § 435.117(a); N.Y. Soc. Serv. Law § 366-g(3)). This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility (*Id.*).

Additionally, Medicaid MMCs are contractually obligated to provide coverage to eligible newborns from the date of birth (Medicaid Managed Care Model Contract (Appendix H-3(a), effective 3/1/2014 – 2/28/2019).

An annual redetermination of eligibility must be completed on behalf of the child at which time documentary evidence of citizenship and social security number is required (42 CFR § 435.117(d), 42 CFR § 435.920).

Renewal of Eligibility for Enrollment in Medicaid

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

A person whose Medicaid eligibility is based on the modified adjusted gross income of the person or the person's household remains Medicaid eligible for 12 months unless the person becomes ineligible due to "citizenship status, lack of [New York] state residence, or failure to provide a valid social security number" (N.Y. Social Services Law § 366.4(c)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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)). If NYSOH cannot verify the income information required to determine eligibility, it must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)). For Medicaid applicants or enrollees upon renewal, NYSOH provides fourteen days for an individual to provide satisfactory income documentation to resolve the inconsistency.

Legal Analysis

Initially, the record reflects that you had health insurance coverage with Medicaid, effective December 1, 2014 and were enrolled in an MMC plan, effective February 1, 2015 through NYSOH. Although the June 26, 2015 eligibility redetermination notice stated that you were no longer eligible for Medicaid, it also stated that your eligibility for Medicaid and enrollment in your MMC plan would continue until November 30, 2015, and the record reflects that it did. Therefore, you were afforded a total of 12 months of Medicaid continuous coverage from December 1, 2014 until November 30, 2015.

Medicaid coverage must be provided to a child born to a woman who has been determined eligible for and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains eligible and the child is a member of the woman's household. The record reflects that your child was born on June 17, 2015, at which time you were enrolled in an MMC plan. However, NYSOH deemed your child eligible for Medicaid Fee-For-Services as of the first day of his birth month and enrolled him in your MMC plan as of August 1, 2015, when he should have been enrolled in your MMC plan as of his date of birth. Since your child's enrollment start date in your MMC plan as

of his date of birth is not the basis of this appeal, no further action by NYSOH is required in this regard.

Turning to the issue under review, at issue is whether or not NYSOH properly determined that you and your child were no longer eligible for Medicaid, effective November 30, 2015. The record reflects that your twelve months of continuous coverage was due to end on November 30, 2015.

In advance of annual renewals of health insurance coverage, NYSOH must send an annual renewal notice that contains the information NYSOH will use to redetermine a qualified individual's eligibility for financial assistance for the upcoming policy year, including information used in redetermining a qualified individual's eligibility for Medicaid once every twelve months. The notice must allow a reasonable amount of time for the qualified individual to respond to the need to provide information and for NYSOH to implement any changes that the individual has elected. If a qualified individual does not respond to the notice after a 30-day period or the time allotted, NYSOH must redetermine that individual's eligibility using the information provided in the annual renewal notice.

NYSOH's September 18, 2015 renewal notice stated there was not enough information to determine whether or not you and your child would be eligible to continue your financial assistance for health insurance upon renewal and that you needed to supply the additional information by November 15, 2015, or the financial assistance you were both then receiving might end.

Your child's eligibility only remained in effect as long as you remained eligible for Medicaid, and your twelve months of continuous Medicaid coverage was due to end November 30, 2015. Because there was no timely response to the renewal notice by the November 15, 2015 deadline and because your child's Social Security number and documentation to prove his citizenship had not been provided, you and your child were redetermined ineligible for financial assistance or to enroll in a qualified health plan through NYSOH, effective November 30, 2015, and were terminated from your MMC plan effective November 30, 2015. Therefore, the November 17, 2015 notice of eligibility redetermination and the November 23, 2015 disenrollment notice were correct when made and must be AFFIRMED.

Notwithstanding, you and your child were granted aid to continue by NYSOH as of December 1, 2015 through June 30, 2016 and, accordingly, had health insurance coverage through your MMC plan during this appeal process. Since your NYSOH account was updated on November 23, 2015, to add your spouse as a family member, your child's Social Security number, and your annual household income, and to confirm your child's citizenship status as a U.S. citizen, your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance going forward using a three-person household in Suffolk County with an annual household income of \$35,000.00. In the event

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your child is redetermined eligible for Medicaid, you may be required to provide satisfactory income documents to prove your household's annual and current monthly income.

Decision

The November 17, 2015, eligibility determination notice is AFFIRMED.

The November 23, 2015 disenrollment notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your and your child's eligibility for financial assistance going forward for a three-person household in Suffolk County with an annual household income of \$35,000.00. In the event your child is redetermined eligible for Medicaid, you may still be required to provide satisfactory income documents to prove your household's annual and current monthly income.

Effective Date of this Decision: May 6, 2016

How this Decision Affects Your Eligibility

This decision does not affect you or your child's eligibility after November 30, 2015.

You were both granted aid to continue effective December 1, 2015 through June 30, 2016 and were placed back in your MMC plan during this appeal process.

NYSOH will redetermine your and your child's eligibility for financial assistance going forward based on a three-person household in Suffolk County with an annual household income of \$35,000.00. You will be notified by NYSOH of its eligibility redetermination for both you and your child.

In the event your child is redetermined eligible for Medicaid, you may still be required to provide satisfactory income documents to prove your household's annual and current monthly income.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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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 after the date 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 U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

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 November 17, 2015, notice of eligibility determination notice is **AFFIRMED**.

The November 23, 2015 disenrollment notice is **AFFIRMED**.

Your case is **RETURNED** to NYSOH to redetermine your and your child's eligibility for financial assistance going forward for a three-person household in Suffolk County with an annual household income of \$35,000.00.

In the event your child is redetermined eligible for Medicaid, you may still be required to provide satisfactory income documents to prove your household's annual and current monthly income.

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This decision does not affect you or your child's eligibility after November 30, 2015.

You were both granted aid to continue effective December 1, 2015 through June 30, 2016 and were placed back in your MMC plan during this appeal process.

NYSOH will redetermine your and your child's eligibility for financial assistance going forward based on a three-person household in Suffolk County with an annual household income of \$35,000.00. You will be notified by NYSOH of its eligibility redetermination for both you and your child.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

