



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

## Notice of Decision

Decision Date: April 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005375

[REDACTED]

Dear [REDACTED],

On February 25, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's December 5, 2015 eligibility determination.

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 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 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005375



## Issues

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

Did NY State of Health (NYSOH) properly disenroll your son from his Medicaid Managed Care plan as of November 30, 2015?

Did NYSOH properly determine that your son was eligible to enroll in the Essential Plan, effective January 1, 2016?

Did NYSOH properly determine that your son was not eligible for Medicaid as of your November 30, 2015 application?

## Procedural History

On December 4, 2014, NYSOH issued an eligibility determination which stated that your son remained eligible for Medicaid, effective December 1, 2014.

On September 15, 2015, NYSOH issued a renewal notice, which stated that NYSOH could not determine whether your son qualified for financial assistance with paying for his health coverage for the upcoming year, and requesting that you update your NYSOH account by November 15, 2015.

No updates were made to your account by November 15, 2015.

On November 22, 2015, NYSOH issued an eligibility determination which stated that your son was eligible to purchase a Qualified Health Plan (QHP) at full cost, effective December 1, 2015. The notice further stated that he did not qualify for

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any financial assistance because you had not responded to the renewal notice within the required timeframe.

On November 23, 2015, NYSOH issued a disenrollment notice stating that your son's coverage in his Medicaid Managed Care (MMC) plan would end effective November 30, 2015.

On November 30, 2015, NYSOH received your updated application for financial assistance. That day, a preliminary eligibility determination was prepared stating that your son was eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016.

Also on November 30, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your son was not eligible for Medicaid. According to NYSOH's records, you also requested "Aid to Continue."

On December 5, 2015, NYSOH issued an eligibility determination based on the November 30, 2015 application, stating that your son was eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016.

Also on December 5, 2015, an enrollment confirmation notice was issued stating, in pertinent part, that your son was enrolled in an Essential Plan with a \$20.00 monthly premium, with a plan start date of January 1, 2016.

On December 18, 2015, a cancellation notice was issued, stating that your request to cancel your son's Essential Plan coverage was received on November 30, 2015, and that he would not have coverage through the Essential Plan effective January 1, 2016.

On December 22, 2015, NYSOH apparently made a decision on your Aid to Continue request; notes in your account indicate that your request was granted, and Medicaid coverage was continued pending the completion of your appeal.

Also on December 24, 2015, NYSOH issued an enrollment confirmation notice that stated, in pertinent part, that your son had been re-enrolled in a Medicaid Managed Care (MMC) plan, effective February 1, 2016. A later notice backdated this coverage to December 1, 2015.

That same day, NYSOH also issued a cancellation notice which stated that your son's coverage through the Essential Plan would end effective January 1, 2016 because he was no longer eligible to enroll in his current health insurance. It appears that this cancellation was the result of your Aid to Continue request and your son's subsequent re-enrollment in Medicaid; however the notice does not explicitly state this.

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On February 25, 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 testified that you live with your domestic partner and your three children, one of whom (your son) is the subject of this appeal. You testified that your oldest child has her own Medicaid case, and has a child of her own.
- 2) You testified that you receive your notices from NYSOH by regular mail.
- 3) You testified that you could not recall whether you received the September 15, 2015 renewal notice, but that you recall contacting NYSOH by phone to update your account in late November or early December because you received a notice that said your son's coverage was going to be canceled.
- 4) There is nothing in your account to indicate that the September 15, 2015 renewal notice was returned to NYSOH as undeliverable.
- 5) The November 30, 2015 application states that your domestic partner planned to file his tax return as head of household with qualifying individual, and to claim your two children as dependents. The application reflects that you planned to file your tax return as single.
- 6) However, you testified at the hearing that you now plan to file as head of household with qualifying individual, and to list your son, the subject of this appeal, as a dependent. You also testified that your domestic partner will claim your other child as his dependent.
- 7) The record reflects that your son was 21 years old at the time of your November 30, 2015 application.
- 8) You testified you are seeking for your son to be found eligible for Medicaid instead of the Essential Plan, and for your son to have Medicaid coverage beginning with the month of December 2015.
- 9) The application that was submitted on November 30, 2015 listed an annual household income of \$31,200.00, consisting of employment earnings from your domestic partner.

- 10) Your application of November 30, 2015 indicates that your domestic partner does not plan to take any deductions.
- 11) Your application of November 30, 2015 indicates that your expected annual income was \$0.00; however, you testified at the hearing that you do some side jobs, and you expect your 2015 income to be approximately \$9,000.00.
- 12) Your application states that you live in Nassau County.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 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)).

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)).

### Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan (a basic health plan) if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR

§ 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL for the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

A person who has a household income greater than 150% and below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

### Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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 § 435.4). On the date of your application, that was the 2015 FPL, which is \$20,090.00 for a two-person household (80 Federal Register 3236, 3237).

### Household Composition

For purposes of Medicaid eligibility, the household of an individual claimed as a tax dependent by another taxpayer is generally the same as the household of the taxpayer claiming the tax dependent (42 CFR § 435.603(f)(2)). If the tax dependent is under the age of 21 and a full-time student, the household includes the following persons: (1) the tax dependent, (2) the tax dependent's spouse, (3) the tax dependent's natural, adopted, and step children under age 19, or under age 21 if a full-time student, (4) the tax dependent's natural, adopted and step parents, and (5) the tax dependent's natural, adoptive, and step siblings under the age of 19, or under the age of 21 if a full-time student. (42 CFR § 435.603(f)(2) & (3), State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## Legal Analysis

The first issue under review is whether NYSOH properly disenrolled your son from his MMC plan, effective November 30, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's September 15, 2015 renewal notice stated that there was not enough information to determine whether your son was eligible for financial assistance for health insurance coverage in 2015, and that you needed to supply additional information by November 15, 2015 or his financial assistance might end.

Because there was no timely response to this notice, your son's coverage with his MMC plan was terminated, effective November 30, 2015.

You testified that you do not recall whether you received the notice advising you that it was time to renew your son's eligibility.

The record indicates that the renewal notice were issued to the address you have listed on your NYSOH account, and that there is no indication that it was returned to NYSOH as undeliverable.

The record reflects, and your testimony supports, that you updated the information in your NYSOH account on November 30, 2015.

Therefore, since you did not respond to the renewal notice within the specified timeframe, the November 23, 2015 disenrollment notice which stated that your son's MMC plan coverage ended effective November 30, 2015 was correct and is AFFIRMED with regard to your son's disenrollment from his MMC plan.

The second issue under review is whether NYSOH properly determined that your son was eligible for the Essential Plan, effective January 1, 2016.

The application that was submitted on November 30, 2015 reflected an annual household income of \$31,200.00 and the eligibility determination relied upon that information.

The November 30, 2015 application indicates that your son would not file a tax return, but would be claimed as a dependent on your domestic partner's tax return. The same application also indicated that your domestic partner planned to file his 2016 taxes as head of household with qualifying individual, and to claim your son and your younger daughter as dependents. Therefore, at the time of the November 30, 2015 application, your son was in a three-person household with



your domestic partner (his father) and your youngest daughter (his younger sister).

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$31,200.00 is 155.30% of the 2015 FPL, NYSOH properly found your son to be eligible for the Essential Plan based on the information in your November 30, 2015 application. Therefore, the December 5, 2015 eligibility determination finding your son eligible for the Essential Plan, effective January 1, 2016, is AFFIRMED.

The third issue under review is whether NYSOH properly determined that your son was not eligible for Medicaid as of your November 30, 2015 application.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$31,200.00 is 155.30% of the 2015 FPL, NYSOH properly found your son to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application, as of November 30, 2015. Therefore, the December 5, 2015 eligibility determination finding your son to be not eligible for Medicaid as of your November 30, 2015 application is AFFIRMED.

However, at the hearing, you testified that you now plan to file your 2016 taxes as head of household with qualifying individual, and to claim your son as a dependent. You also testified that you do "side jobs" and that your income for 2015 will be somewhere in the neighborhood of \$9,000.

Since the information you testified to is different than what was attested to on your November 30, 2015 application, your case is RETURNED to NYSOH to facilitate your submitting a new application, to redetermine your son's eligibility based on a two-person household in Nassau County, with a projected annual income of \$9,000.00

NYSOH is further directed to update your application with the information you testified to, verify the accuracy of the information, and issue a new eligibility determination regarding your son's eligibility for financial assistance from this point onwards.

Please be advised that NYSOH may require additional information and/or documentation from you in order to issue a new eligibility determination regarding your son's eligibility for financial assistance.

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).

## **Decision**

The November 23, 2015 disenrollment notice which terminated your son's enrollment in his MMC plan effective November 30, 2015 is AFFIRMED.

The December 5, 2015 eligibility determination notice is AFFIRMED with regard to your son's eligibility for the Essential Plan, effective January 1, 2016.

Your case is RETURNED to NYSOH to redetermine your son's eligibility for coverage, based on a two-person household, residing in Nassau County with an annual household income of \$9,000.00.

NYSOH is further directed to update your application with the information you testified to at your hearing, verify the accuracy of the information provided, and issued a new eligibility determination regarding your son's eligibility for financial assistance, effective December 1, 2015.

**Effective Date of this Decision:** April 27, 2016

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

Your son was properly discontinued from his MMC plan, effective November 30, 2015.

Your son was eligible for the Essential Plan effective January 1, 2016, based on the information in your November 30, 2015.

Your case is being sent back to NYSOH to redetermine your son's eligibility for coverage based on the information you provided during your hearing.

You may be required to update your application, and/or provide additional information/documentation to NYSOH to verify the information you testified to at the hearing so that NYSOH can make a new determination regarding your son's eligibility.

## **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.

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).

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 U.S. Department of Health and Human Services. 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 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 23, 2015 disenrollment notice which terminated your son's enrollment in his MMC plan effective November 30, 2015 is AFFIRMED.

The December 5, 2015 eligibility determination notice is AFFIRMED with regard to your son's eligibility for the Essential Plan, effective January 1, 2016.

Your case is RETURNED to NYSOH to redetermine your son's eligibility for coverage, based on a two-person household, residing in Nassau County with an annual household income of \$9,000.00.

NYSOH is further directed to update your application with the information you testified to at your hearing, verify the accuracy of the information provided, and 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).

issued a new eligibility determination regarding your son's eligibility for financial assistance.

Your son was properly discontinued from his MMC plan, effective November 30, 2015.

Your son was eligible for the Essential Plan effective January 1, 2016, based on the information in your November 30, 2015.

Your case is being sent back to NYSOH to redetermine your son's eligibility for coverage, based on the information you provided during your hearing.

You may be required to update your application, and/or provide additional information/documentation to NYSOH to verify the information you testified to at the hearing so that NYSOH can make a new determination regarding your son's eligibility.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**

