



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

Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005500

[REDACTED]

Dear [REDACTED],

On March 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 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 the 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 Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005500

[REDACTED]

Issues

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

Did NY State of Health (NYSOH) properly determine that you and your child were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until May 31, 2016?

Did NYSOH properly determine that your spouse was eligible for an Essential Plan, effective January 1, 2016?

Procedural History

On March 11, 2015, NYSOH issued an eligibility determination notice, stating, in part, that you, [REDACTED] were eligible for Medicaid, effective December 1, 2014, and your child was eligible effective March 1, 2015.

On June 11, 2015, NYSOH issued an eligibility redetermination notice, stating that you were eligible for Medicaid, effective July 1, 2015, respectively, while your spouse and child "remained eligible" for Medicaid, effective June 1, 2015.

On June 12, 2015, NYSOH issued an enrollment confirmation notice, stating that your child and spouse had each been auto-enrolled in UnitedHealthcare as their Medicaid Managed Care (MMC) plan. You did not need to pick a plan at that time.

On November 29, 2015, NYSOH redetermined your eligibility based, in part, on the information contained in your June 10, 2015 application. In response to that

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application, NYSOH prepared a preliminary eligibility determination stating that you were eligible to enroll in Medicaid, inexplicably starting “January 1, 2016” and ending “December 31, 2015” (sic); your child was eligible for Medicaid from January 1, 2016 to January 31, 2016. Your spouse was found eligible to enroll in an Essential Plan with no monthly premium, starting and ending January 1, 2016. No written eligibility determination notice was issued by NYSOH formalizing the findings contained in this preliminary eligibility determination.

On December 9, 2015, NYSOH received multiple additional updates to your application. Based on the information contained in the last application submitted on that date, NYSOH prepared a preliminary eligibility determination stating that both you and your child were eligible to enroll in Medicaid, effective December 1, 2015 to December 31, 2015. Your spouse was found eligible to enroll in an Essential Plan with a monthly premium of \$20.00, from January 1, 2016 to January 31, 2016.

Also on December 9, 2015, you contacted NYSOH’s Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your child’s Medicaid coverage was continued, and were not permitted to enroll in the Essential Plan in your spouse was found eligible, or conversely, your spouse was no longer eligible for Medicaid, such that he would be eligible to enroll in your child’s MMC plan.

On December 10, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in your final application updated submitted on December 9, 2015, stating that you and your child were no longer eligible for Medicaid; however, your Medicaid coverage would continue until May 31, 2016. The notice also stated that your spouse was eligible to enroll in the Essential Plan, effective January 1, 2016.

On March 2, 2016, you had a telephone hearing with a Hearing Officer from NYSOH’s Appeals Unit. At your request, a Portuguese language-interpreter (ID # [REDACTED]) also attended the hearing. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You expect to file your 2016 federal income tax return as married filing jointly, and claim your 8-year-old child as your sole dependent on that tax return.

- 2) According to the final application submitted on December 9, 2015 application, you attested to an expected household income of \$32,000.00.
- 3) The final December 9, 2015 application reflects that while you and your child are U.S. citizens, your spouse is an immigrant non-citizen legally residing in the U.S. on an I-551 permanent resident card.
- 4) You had been found eligible for Medicaid coverage effective July 1, 2015, based on an eligibility determination notice issued on June 11, 2015.
- 5) Your spouse and child had been found eligible for Medicaid coverage effective June 1, 2015, based on an eligibility determination notice issued on June 11, 2015.
- 6) Your spouse was found eligible to enroll in an Essential Plan, effective January 1, 2016.
- 7) You live in Westchester County, New York.

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

Applicable Law and Regulations

Most individuals determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH 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 12-month period. This 12-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 (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, citizenship status, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

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 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).

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

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the State, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your child were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until May 31, 2016.

On March 11, 2015, NYSOH issued an eligibility determination notice stating that your child were eligible for Medicaid as of March 1, 2015. However, on June 12, 2015, NYSOH issued an eligibility determination notice stating that you, [REDACTED] were eligible for Medicaid as of July 1, 2015 and your child was eligible effective June 1, 2015. Those determinations have not been appealed and are not under review here.

You testified that you were seeking to either be permitted to enroll you and your child in your spouse's Essential Plan or, in the alternative, for your spouse to be permitted to be reenrolled in Medicaid together with your spouse and child.

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Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% (154% in the case of your 8-year-old child) of the FPL. This provision is called “continuous coverage.”

Although you and your child were no longer eligible for Medicaid because your income increased by the time you modified your application on December 9, 2015, you and your child remained enrolled for coverage under Medicaid for the rest of your 12-month eligibility period.

You, [REDACTED] were most recently found eligible for Medicaid effective July 1, 2015; therefore, the twelfth month of your Medicaid eligibility ends on June 30, 2016. Your child most recently became eligible for Medicaid effective June 1, 2015; therefore, the twelfth month of her Medicaid eligibility ended effective May 31, 2016.

The second issue under review is whether NYSOH properly determines that your spouse was eligible for an Essential Plan, effective January 1, 2016.

In New York, qualified immigrants who were formerly eligible for Medicaid through the State, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016, regardless of any period of continuous coverage. Citizenship status is one of the few reasons that the continuous coverage period will be shortened.

Because your husband’s prior eligibility for Medicaid was NY based only and he was not eligible for Medicaid through the federal government, NYSOH properly found that your spouse’s eligibility changed to the Essential Plan effective January 1, 2016.

Therefore, the December 10, 2015 eligibility determination notice finding that your spouse was eligible for the Essential Plan and that you and your child would remain covered by Medicaid was correct, except insofar as it found your individual eligibility ended May 31, 2016; it should have been June 30, 2016 for you, [REDACTED]

Your case is RETURNED to NYSOH to effectuate the revised end dates of Medicaid coverage for you, and to redetermine your child’s eligibility since her Medicaid through continuous coverage has since lapsed.

Decision

The December 10, 2015 eligibility determination notice is MODIFIED to state that you will remain enrolled in Medicaid until June 30, 2016 and that your child will

remain enrolled in Medicaid until May 31, 2016, through continuous coverage, but is otherwise affirmed.

Your case is RETURNED to NYSOH to effectuate the revised end dates of Medicaid coverage for you and to redetermine your child's eligibility since her Medicaid through continuous coverage has since lapsed.

Effective Date of this Decision: June 16, 2016

How this Decision Affects Your Eligibility

Your Medicaid coverage ends as of June 30, 2016.

Your child's Medicaid coverage ended as of May 31, 2016.

Your spouse remains eligible for the Essential Plan with a monthly premium of \$20.00 effective January 1, 2016

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.

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 December 10, 2015 eligibility determination notice is MODIFIED to state that you will remain enrolled in Medicaid until June 30, 2016 and that your child will remain enrolled in Medicaid until May 31, 2016, through continuous coverage, but is otherwise affirmed.

Your case is RETURNED to NYSOH to effectuate the revised end dates of Medicaid coverage for you and to redetermine your child's eligibility since her Medicaid through continuous coverage has since lapsed.

Your Medicaid coverage ends as of June 30, 2016.

Your child's Medicaid coverage ended as of May 31, 2016.

Your spouse remains eligible for the Essential Plan with a monthly premium of \$20.00 effective January 1, 2016

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

