



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

## Notice of Decision

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005670

[REDACTED]

Dear [REDACTED],

On March 17, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 5, 2015 and the December 18, 2015 eligibility determination notices.

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

Decision Date: May 27, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005670

[REDACTED]

## Issues

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

Did NYSOH properly determine that your newborn child's eligibility for Medicaid was contingent on her submitting proof of citizenship status and her Social Security number?

Did NYSOH properly determine that your newborn child was eligible for Child Health Plus, effective January 1, 2016?

## Procedural History

On December 4, 2014, NYSOH issued a notice of eligibility determination stating that your spouse was eligible for Medicaid, effective November 1, 2014.

On June 1, 2015 your newborn child was added to your NYSOH account.

On June 2, 2015 NYSOH issued a notice of eligibility determination, stating that your child was conditionally eligible for Medicaid, effective June 1, 2015. The notice requested that you provide documentation of your child's citizenship status and social security number before August 30, 2015 in order to confirm her eligibility.

On September 5, 2015 NYSOH issued a notice of eligibility determination stating that your child was no longer eligible for Medicaid because you had not provided proof of her citizenship status or Social Security number to NYSOH. Her eligibility ended effective September 30, 2015.

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On September 15, 2015 your NYSOH account was updated to include your child's Social Security number.

On September 16, 2015, October 6, 2015, November 25, 2015, December 11, 2015, December 14, 2015, and December 15, 2015 NYSOH issued notices stating that your child might be eligible for health insurance through NYSOH but more information was needed to make a determination. Each notice directed you to submit documentation of your household's income.

On December 18, 2015 NYSOH issued a notice of eligibility determination stating that your child was eligible to enroll in Child Health Plus with a \$15.00 per month premium, effective January 1, 2016. The notice further stated that your child was not eligible for Medicaid because the household income was over the allowable income limit for that program.

On December 21, 2015 you spoke to NYSOH's Account Review Unit and appealed your child's eligibility insofar as she did not have continuous Medicaid coverage as of September 30, 2015.

On December 22, 2015 NYSOH issued a notice of enrollment stating that your child was enrolled in a Child Health Plus plan, effective February 1, 2016.

On March 17, 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 support the following findings of fact:

- 1) In the application that was submitted on November 18, 2014, your spouse indicated that she was pregnant.
- 2) Your application indicates that your child was born on [REDACTED]
- 3) On June 1, 2015, your newborn child was added to your NYSOH account. The application submitted that day indicated that your child did not have a Social Security number because she was in the process of applying for one.
- 4) The application that was submitted on September 15, 2015 listed a household income of \$35,812.40.
- 5) The application that was submitted on October 5, 2015 listed a household income of \$32,213.78.

- 6) The applications that were submitted on November 24, 2015, December 10, 2015, December 13, 2015, and on December 15, 2015 listed a household income of \$41,762.76.
- 7) The application that was submitted on December 17, listed a household income of \$46,962.76.
- 8) You testified that your child was without health insurance for the months of October 2015, November 2015, December 2015, and January 2016.

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

## **Applicable Law and Regulations**

### Medicaid - Pregnant Women

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 New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

## Medicaid- Newborn Child

A child who is under one year of age 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 223% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, 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 (or would remain if pregnant) eligible and the child is a member of the woman's household (42 CFR § 435.117(a); NY Social Services Law § 366-g(3)). 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), § 435.920).

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

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 was \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

## Redetermination During a Benefit Year

Any change resulting from redeterminations of eligibility during a benefit year should be made effective the first day of the month following the date of the notice of redetermination, except that redeterminations resulting from changes made after a date specified by the state, which can be no earlier than the 15<sup>th</sup> of the month, may not be made effective until the first day of the month after the month following the date of the notice of redetermination (45 CFR § 155.330(f)(1) and (2)). New York has specified that changes made after the 15<sup>th</sup> of a given month will take effect the month after the following month.

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your newborn child's eligibility for Medicaid ended effective September 30, 2015 because it was contingent on her submitting proof of citizenship status and her Social Security number.

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On June 1, 2015, your newborn child was added to your NYSOH account. The application submitted that day indicated that your child did not have a Social Security number because she was in the process of applying for one. That application listed an annual household income of \$40,000.00.

On June 2, 2015 NYSOH issued a notice stating that your child was conditionally eligible for Medicaid and that you needed to provide documentation of your child's citizenship status and Social Security number before August 30, 2015 in order to confirm her eligibility.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that they have a valid social security number and citizenship status. However, a newborn child is not required to provide a social security number or proof of citizenship status until their eligibility is redetermined during their annual renewal.

Therefore, the June 2, 2015 eligibility determination is MODIFIED to state that your child was eligible for Medicaid effective June 1, 2015.

The September 5, 2015 eligibility determination is RESCINDED insofar as your child's eligibility should not have been contingent on her submitting proof of citizenship status and a Social Security number.

The second issue under review NYSOH properly determined that your newborn child was eligible for Child Health Plus, effective January 1, 2016.

Medicaid coverage must be provided to a child born to a woman who 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 eligible, or would remain eligible if pregnant, and the child is a member of the woman's household.

Your child is in a household of three people because you expect to file a tax return jointly with your spouse and claim your child as a dependent.

Medicaid can be provided through NYSOH to children under the age of one and pregnant women who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size.

The household income on your NYSOH account was updated several times. On September 15, 2015 the application listed a household income of \$35,812.40, which is 178.26% of the FPL for a three person household. On October 5, 2015 the application listed a household income of \$32,213.78 which is 160.35% of the

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FPL for a three person household. On November 24, 2015, December 10, 2015, December 13, 2015, and on December 15, 2015 the application listed a household income of \$41,762.76 which is 207.89% of the FPL for a three person household. Since the incomes listed on the account throughout October, November, and December were below the Medicaid threshold for your infant, your child should have remained eligible for Medicaid during those months.

On December 17, 2015 the income information was updated on your application to \$46,962.76 which is 233.76% of the FPL for a three person household. Since this is above the 223% of the FPL for pregnant woman and children under one year of age, your child was no longer eligible for Medicaid coverage and was instead eligible for coverage through Child Health Plus.

However, when an individual changes information in their application after the 15th of any month, NYSOH must make the redetermination that results from the change effective the first day of the next following month.

Therefore, the December 18, 2015 eligibility determination notice is MODIFIED to state that your child's eligibility in Child Health Plus was effective February 1, 2016, instead of January 1, 2016, and Medicaid coverage should have continued until the eligibility for Child Health Plus began.

Your case is RETURNED to NYSOH to reinstate your child's Medicaid coverage from October 1, 2015 to January 31, 2016.

## **Decision**

The June 2, 2015 eligibility determination is MODIFIED to state that your child was eligible for Medicaid effective June 1, 2015.

The September 5, 2016 eligibility determination is RESCINDED.

The December 18, 2015 eligibility determination notice is MODIFIED to state that your child's eligibility in Child Health Plus was effective February 1, 2016.

Your case is RETURNED to NYSOH to reinstate your child's Medicaid coverage as of October 1, 2015 continuing until January 31, 2016.

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



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

Your child was improperly disenrolled from her Medicaid coverage as of September 30, 2015, and your case is being sent back to NYSOH to reinstate your child's Medicaid coverage from October 1, 2015 through January 31, 2016.

Your daughter is eligible for Child Health Plus as of February 1, 2016. This decision has no effect on her enrollment in Child Health Plus.

## **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:  
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- By fax: 1-855-900-5557

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## **Summary**

The June 2, 2015 eligibility determination is MODIFIED to state that your child was eligible for Medicaid effective June 1, 2015.

The September 5, 2016 eligibility determination is RESCINDED.

Your child was improperly disenrolled from her Medicaid coverage as of September 30, 2015

The December 18, 2015 eligibility determination notice is MODIFIED to state that your child's eligibility in Child Health Plus was effective February 1, 2016.

Your case is being sent back to NYSOH to reinstate your child's Medicaid coverage from October 1, 2015 through January 31, 2016.

Your daughter is eligible for Child Health Plus as of February 1, 2016. This decision has no effect on her enrollment in Child Health Plus

## **Legal Authority**

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

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

