



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

## Notice of Decision

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005819

[REDACTED]

Dear [REDACTED],

On March 21, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's October 30, 2015 eligibility determination notice, and the October 28, 2015 and December 25, 2015 enrollment confirmation 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).

This page intentionally left blank.



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

## Decision

Decision Date: May 31, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005819



## 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 your children's enrollment in their Medicaid Managed Care plan was effective December 1, 2015?

Did NYSOH properly determine that your enrollment in your Medicaid Managed Care plan was effective February 1, 2016?

## Procedural History

On December 5, 2014 NYSOH issued a notice of eligibility determination stating that your children were eligible to enroll in Child Health Plus with a \$9.00 per month premium each, effective January 1, 2015.

On December 17, 2014 NYSOH issued a notice of enrollment stating that your children were enrolled in a Child Health Plus plan and that their coverage could start as early as January 1, 2015 if you paid their first month's premium.

On October 27, 2015 NYSOH received two updated applications for health insurance; for the first time, your spouse was added to the account. That day, you also uploaded a copy of your permanent resident card to your account.

On October 28, 2015 NYSOH issued notice of eligibility determination, based on the second application submitted on October 27, 2015, stating that you remained conditionally eligible for Medicaid, effective October 1, 2015. The notice directed

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 to provide documentation confirming your citizenship status by January 25, 2016, or you might be found ineligible for health insurance or financial assistance. The notice also stated that your children remained eligible for Medicaid effective October 1, 2015.

Also on October 28, 2015 NYSOH a notice of disenrollment stating that your children's enrollment in their Child Health Plus plan was terminated effective October 31, 2015.

Also on October 28, 2015 NYSOH issued a notice of enrollment stating that you and your children's enrollment in your Medicaid Managed Care plan would start December 1, 2015.

On October 29, 2015, information in your NYSOH account was updated.

On October 30, 2015, a notice of eligibility determination was issued, based on the updates made to your account on October 29, 2015, stating that you were newly eligible to receive advance payments of the premium tax credit (APTC) and cost-sharing reductions, effective December 1, 2015; you were not eligible for Medicaid because your household income was over the allowable income limit for that program. The notice also stated that your children were no longer eligible for Medicaid; however their coverage would continue until September 30, 2016 because certain individuals who are found eligible for Medicaid remain eligible for twelve continuous months.

Also on October 30, 2015 NYSOH issued a disenrollment notice stating that your Medicaid Fee-For-Service coverage would end as of November 30, 2015.

On December 22, 2015 your NYSOH account was updated. That day, a preliminary eligibility determination was prepared stating that you and your children were eligible for Medicaid, effective December 1, 2015.

On December 24, 2015 NYSOH issued a notice of enrollment stating that your enrollment in a Medicaid Managed Care plan would start February 1, 2016. The notice also stated that your children's enrollment in a Medicaid Managed Care plan was effective December 1, 2015.

On December 29, 2015 you spoke with NYSOH's Account Review Unit and the December 1, 2015 Medicaid Managed Care plan start date for your children, and the February 1, 2016 Medicaid Managed Care plan start date for yourself.

On January 1, 2016, NYSOH issued a notice of eligibility determination stating that you and your children remain eligible for Medicaid, effective January 1, 2016.

On March 22, 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) Your NYSOH application indicates that you file your taxes as married filing jointly, and you claim your five children as dependents.
- 2) The record indicates that your children were eligible for and enrolled in Child Health Plus from January 1, 2015 through October 31, 2015.
- 3) You testified that you found out you were pregnant in September 2015. As a result, you contacted an application counselor from Fidelis Care in order to assist you with updating your NYSOH account.
- 4) On October 27, 2015, your NYSOH account was updated by an application counselor to indicate that you were pregnant and expecting to have one child, and the household income listed on that application was \$60,000.00.
- 5) On October 27, 2015, the application counselor enrolled you and your children into a Medicaid Managed Care plan.
- 6) On October 27, 2015, a copy of your resident alien card was uploaded to your NYSOH account.
- 7) On October 29, 2015, your NYSOH account was updated by a representative from NYSOH to indicate that you were not pregnant. The record reflects that this change was not made in your presence, either in person or on the phone; there is no evidence in your account to show that you were no longer pregnant. The household income on your application remained at \$60,000.00.
- 8) On December 22, 2015, your NYSOH account was updated by a representative from NYSOH to indicate that you were pregnant and expecting to have one child.
- 9) You testified that you received bills for medical treatment that two of your children, Hadassah and Sara, received. You further testified that you believe the outstanding bills from December had been settled but there may still be outstanding bills from November.

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

## **Applicable Law and Regulations**

### 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)), N.Y. Soc. Serv. 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).

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 \$40,890.00 for an eight-person household (80 Fed. Reg. 3236, 3237).

### Medicaid Managed Care Plan

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the

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).

second following month (Medicaid Managed Care Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h)).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in Child Health Plus 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)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your children’s enrollment in their Medicaid Managed Care plan was effective December 1, 2015.

You testified that you received bills for medical treatment that two of your children, Hadassah and Sara, received. You further testified that you believe the outstanding bills from December had been settled but there may still be outstanding bills from November.

The record indicates that your children were eligible for and enrolled in Child Health Plus as of January 1, 2015. On October 27, 2015 your NYSOH account was updated and as a result, your children were found eligible for Medicaid fee-for-service coverage effective October 1, 2015.

Under New York State’s Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus. Subsequently to being found eligible for Medicaid, your children were terminated from their Child Health Plus plan effective October 31, 2015.

On October 27, 2015, your children were enrolled into a Medicaid Managed Care plan.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the October 28, 2015 enrollment confirmation notice stating that your children’s enrollment in their Medicaid Managed Care plan was effective December 1, 2015, is correct and must be AFFIRMED.

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).

The second issue under review is whether NYSOH properly determined that your enrollment in your Medicaid Managed Care plan was effective February 1, 2016.

You testified that you found out you were pregnant in September 2015. On October 27, 2015, your NYSOH account was updated by an application counselor to indicate that you were pregnant and expecting to have one child. As a result, you were found conditionally eligible for Medicaid and submitted an enrollment in a Medicaid Managed Care plan.

At the time of your October 27, 2015 application, you had a family size of eight people because you were pregnant with one child and you indicated that you file your taxes as married filing jointly, and you claim your five children as dependents.

Medicaid can be provided through NYSOH to 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. On the date of your October 27, 2015 application, the relevant FPL was \$40,890.00 for an eight-person household. Since \$60,000.00 is 146.74% of the 2015 FPL, you were eligible for Medicaid. However, based on the application that was submitted, you were found only conditionally eligible pending the submission of proper documentation of your citizenship status. That same day, a copy of our resident alien card was uploaded to your NYSOH account to satisfy that request.

On October 29, 2015, your NYSOH account was updated by a representative from NYSOH to indicate that you were not pregnant. The record reflects that this change was incorrect and made without your permission.

Medicaid can be provided through NYSOH to non-pregnant individuals who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size.

Since your NYSOH account was updated to indicate that you were not pregnant, and your household income was greater than the allowable limit for non-pregnant individuals, you were disenrolled from your Medicaid coverage.

However, based on your testimony you have been pregnant since September 2015 and the updates that were made to your account on October 29, 2015 were made by a NYSOH representative without your permission, the application that was filed that day is not supported by the evidence in the record.

Therefore, the October 30, 2015, notice of eligibility determination stating that you were newly eligible to receive APTC and cost-sharing reductions, and not eligible for Medicaid, is **RESCINDED**.



On December 22, 2015, your NYSOH account was updated again by a representative from NYSOH to indicate that you were pregnant and expecting to have one child. As a result, you were again found eligible for Medicaid and reenrolled into a Medicaid Managed Care plan.

However, since the October 30, 2015 eligibility determination notice has been rescinded the effective date of your Medicaid Managed Care plan should be determined based on the date you originally selected that plan for enrollment; which was on October 27, 2015.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the December 22, 2015 enrollment confirmation notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan was effective December 1, 2015.

## **Decision**

The October 28, 2015 enrollment confirmation notice is AFFIRMED.

The October 30, 2015 eligibility determination notice is RESCINDED.

The December 22, 2015 enrollment confirmation notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan was effective December 1, 2015.

Your case is RETURNED to NYSOH to reinstate you in your Medicaid Managed Care plan as of December 1, 2015.

**Effective Date of this Decision:** May 31, 2016

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

Your and your children's enrollment in your Medicaid Managed Care plan is effective December 1, 2015.

Your case is being sent back to NYSOH to reinstate you in your Medicaid Managed Care plan accordingly.

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).

## **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 October 28, 2015 enrollment confirmation notice is AFFIRMED.

The October 30, 2015 eligibility determination notice is RESCINDED.

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).

The December 22, 2015 enrollment confirmation notice is MODIFIED to state that your enrollment in your Medicaid Managed Care plan was effective December 1, 2015.

Your and your children's enrollment in your Medicaid Managed Care plan is effective December 1, 2015.

Your case is being sent back to NYSOH to reinstate you in your Medicaid Managed Care plan accordingly.

### **Legal Authority**

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

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

