



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

Notice of Decision

Decision Date: June 7, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006218

[REDACTED]

Dear [REDACTED],

On May 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 13, 2015 and December 15, 2015 eligibility determinations.

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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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 were eligible for Medicaid, effective January 1, 2016?

Did NYSOH later properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2016?

Procedural History

On December 13, 2014, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid, effective January 1, 2015.

On October 24, 2015, NYSOH issued a renewal notice informing you that, based on information from federal and state sources, your eligibility for health insurance could not be determined, and that you needed to update your account by December 15, 2015, or the financial assistance you were receiving might end.

On December 12, 2015, you updated your NYSOH account.

On December 13, 2015, NYSOH issued a notice of eligibility determination stating that you remained eligible for Medicaid as of January 1, 2016, and your spouse was eligible for Medicaid as of December 1, 2015, because the household income of \$19,400.00 that you listed on your application was at or below the allowable income limit of \$21,984.00.

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On December 14, 2015, NYSOH received your updated application for health insurance; specifically, the income information was updated.

On December 15, 2015, NYSOH issued a notice of eligibility determination stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until December 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of January 1, 2016.

The December 15, 2015 eligibility determination also stated that your spouse was eligible to enroll in the Essential Plan with a \$0.00 monthly premium as of January 1, 2016, because your household income of \$22,300.00 was less than the allowable income limit of \$23,895.00 for the Essential Plan. Your spouse was also no longer eligible for Medicaid as of December 31, 2015.

Also on December 15, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care (MMC) plan as of January 1, 2015, and your spouse's enrollment in an Essential Plan plus Vision and Dental as of January 1, 2016.

On January 15, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Medicaid coverage was continued and you were not found eligible for another insurance program.

On May 6, 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 are appealing solely with respect to your eligibility.
- 2) You expect to file your 2016 federal income tax return as married, filing jointly, and to claim zero dependents.
- 3) According to the December 12, 2015 application, you attested to an expected household income of \$19,400.00. You testified that this income was not an accurate representation of your household income.

- 4) You testified that at the time of your December 12, 2015 application, the income amounts that you entered for yourself and your spouse were based on 2015 earnings.
- 5) You testified that you are self-employed, and you believe that your income for 2016 will be slightly higher than your 2015 income, so you updated your application on December 14, 2015 to reflect what you believe you will earn in 2016.
- 6) You also testified that your spouse recently graduated from school, so he will be available to work more hours in 2016. You therefore also updated his income in your NYSOH account on December 14, 2015
- 7) Your December 14, 2015 application reflects, and your testimony confirms, that your expected annual income for 2016 is \$12,000.00.
- 8) Your December 14, 2015 application reflects, and your testimony confirms, that you expect to take \$700.00 in deductions consisting of the deductible part of your self-employment tax.
- 9) Your December 14, 2015 application reflects, and your testimony confirms, that your spouse's annual expected income for 2016 is \$13,000.00.
- 10) Your December 14, 2015 application reflects, and your testimony confirms, that your spouse expects to take \$2000.00 in deductions, consisting of student loan interest deductions.
- 11) Therefore, according to the December 14, 2015 application, you attested to an increased expected household income of \$22,300.00.
- 12) You testified that you do not want to remain in Medicaid coverage as you know you are not financially eligible for it, and you do not want to use coverage you are not entitled to.
- 13) You also testified that, while you have been waiting for your appeal, you have had to use your Medicaid coverage.
- 14) You testified that you are seeking to be eligible for the same level of coverage for which your spouse is currently eligible.
- 15) Your application reflects that you reside in Erie County.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through NYSOH can be provided 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved 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 \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

Most adults 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, 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were eligible for Medicaid effective January 1, 2016.

You are in a two-person household. According to the record, you expect to file your 2016 tax return as married, filing jointly, and to claim zero dependents.

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On your December 12, 2015 updated application, you attested to an expected household income of \$19,400.00.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 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. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$19,400.00 is 121.78% of the 2015 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, you testified the income listed on that application was not correct because the income amounts you entered for you and your spouse were from the year 2015. You further testified that you updated your account on December 14, 2015 to change your expected annual income, and your spouse's expected annual income, to reflect what you both expect to earn in 2016. You testified that your actual expected annual household income, after deductions as described above, is \$22,300.00, based on what you and your spouse expect to earn in 2016.

Therefore, your household income at the time of the December 14, 2015 application was \$22,300.00. Since \$22,300.00 is 139.99% of the 2015 FPL, it is greater than the allowable Medicaid limit, and the December 13, 2015 eligibility determination notice finding you and your spouse eligible for Medicaid is not supported by the record and is **RESCINDED**.

The second issue is whether NYSOH properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2016.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for twelve continuous months whether or not their income increases. This is referred to as "continuous coverage."

Since the December 15, 2015 eligibility determination was issued based on incorrect information, the continuous coverage policy should not have been applied to you. Therefore, the portion of the December 15, 2015 eligibility determination notice that states that you are no longer eligible for Medicaid but will continue to receive Medicaid coverage until December 31, 2016 is **RESCINDED**.

However, you testified that, while you have been waiting for your appeal to be scheduled, you have had to use your Medicaid coverage. Since you updated your December 12, 2015 application as soon as you realized you had made a

mistake with regard to your household's income, you should not be penalized for using the Medicaid coverage in which NYSOH improperly kept you enrolled.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility based on a two-person household, residing in Erie County, with an expected annual income of \$22,300.00, and to facilitate the transition to the correct coverage.

Decision

The December 13, 2015 eligibility determination notice is RESCINDED.

The December 15, 2015 eligibility determination is partially RESCINDED, insofar as it stated that your Medicaid coverage would continue until December 31, 2016.

Your case is RETURNED to NYSOH to redetermine your eligibility based on a two-person household, residing in Erie County, with an expected annual income of \$22,300.00, and to facilitate the transition to the correct coverage.

Effective Date of this Decision: June 7, 2016

How this Decision Affects Your Eligibility

You were incorrectly found eligible for Medicaid and for continuous coverage in Medicaid.

Your case is being sent back to NYSOH to redetermine your eligibility based on the information contained in your December 14, 2015 application, and confirmed during the hearing. You will receive an eligibility determination notice informing you of your new 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.

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.

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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 13, 2015 eligibility determination notice is RESCINDED.

The December 15, 2015 eligibility determination is partially RESCINDED, insofar as it stated that your Medicaid coverage would continue until December 31, 2016.

Therefore, your case is RETURNED to NYSOH to redetermine your eligibility based on a two-person household, residing in Erie County, with an expected annual income of \$22,300.00, and to facilitate the transition to the correct coverage.

You were incorrectly found eligible for Medicaid and for continuous coverage in Medicaid.

Your case is being sent back to NYSOH to redetermine your eligibility based on the information contained in your December 14, 2015 application, and confirmed

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during the hearing. You will receive an eligibility determination notice informing you of your new 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:

