



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

### Notice of Decision

Decision Date: July 22, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006368

[REDACTED]

Dear [REDACTED]

On July 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 10, 2015 disenrollment notice.

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 NY State of Health 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.

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

## Decision

Decision Date: July 21, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000006368

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that you were no longer eligible to remain enrolled in your Medicaid Managed care plan effective October 31, 2015?

## Procedural History

On January 15, 2015, NY State of Health (NYSOH) issued a notice of eligibility determination stating that you were eligible for Medicaid because your household income of \$57,340.00 was at or below the allowable income limit for that program. This eligibility was effective as of January 1, 2015.

You subsequently enrolled in a Medicaid Managed Care plan effective March 1, 2015.

On October 8, 2015, NYSOH received your updated application for health insurance; specifically the income information was updated. [REDACTED]

On October 9, 2015, an eligibility determination notice was issued finding your children eligible to purchase a qualified health plan at full cost effective November 1, 2015. A determination was further found that more information was required to make a determination about whether your spouse was eligible for health insurance. The notice explained that income information you provided did not match what NYSOH had obtained from state and federal data sources. You

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were asked to submit income documentation for your household by October 23, 2015.

On October 10, 2015, a disenrollment notice was issued terminating your Medicaid Managed care plan and your spouse's Silver level qualified health plan effective October 31, 2015. This was because you no longer were eligible to remain enrolled in your current health plan.

On October 14, 2015, an eligibility redetermination notice was issued finding you conditionally eligible for Medicaid effective November 1, 2015. You were asked to confirm documentation before October 28, 2015.

On October 24, 2015, an eligibility determination notice was issued finding your spouse eligible for Medicaid effective October 1, 2015, and finding you eligible for Medicaid effective November 1, 2015. This was because your household income of \$0.00 was below the allowable income limit of \$81,908.00.

On October 25, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed care plan effective December 1, 2015.

Also on January 21, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Medicaid Managed Care plan was terminated October 31, 2015, and did not begin again until December 1, 2015.

On July 8, 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 are seeking to have your Medicaid Managed Care plan continue for the month of November, 2015.
- 2) You expect to file your 2015 federal income tax return as married filing jointly, and claim five dependents.
- 3) You testified that at the time of your October 8, 2015 application you were pregnant.
- 4) According to the October 8, 2015 application, you attested to an expected household income of \$0.00. You testified that this income is was accurate.

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- 5) You testified that at the time of your application in October 2015, your husband had recently lost employment. You testified that you were applying to adjust your husband's income, and did not think that you would be disenrolled from your Medicaid Managed care plan.
- 6) You provided documentation in the form of a letter dated October 9, 2015 stating your spouse was no longer employed effective September 30, 2015. See Document [REDACTED].
- 7) The record shows you were disenrolled from your Managed Care plan effective October 31, 2015.
- 8) You testified that although you were found eligible for Medicaid fee-for service effective November 1, 2015, the doctor you were seeing did not accept that form of Medicaid.
- 9) You testified that you incurred medical costs in the month of November of approximately \$500.00.
- 10) You testified that you reside in Kings 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); N.Y. Soc. Serv. 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).

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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 \$36,730.00 for a seven-person household (80 Fed. Reg. 3236, 3237).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also 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 is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

### Continuous Coverage

Most adults determined eligible for Medicaid are guaranteed twelve 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 twelve month period. This twelve 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 (N.Y. Soc. Serv. 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 (N.Y. Soc. Serv. Law § 366(4)(c)).

### Medicaid Effective Dates

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 Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

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 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);

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18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were no longer eligible to remain enrolled in your Medicaid Managed Care plan effective October 31, 2015.

On your October 8, 2015 application, you attested to an expected household income of \$0.00.

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size

When calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your application, you were pregnant. Consequently, the NYSOH determined your eligibility for Medicaid using a seven-person household.

On the date of your application, the relevant FPL was \$81,908.00 for a seven-person household at 223% FPL.

You had been originally found eligible for Medicaid on January 1, 2015, and enrolled in a Managed Care plan on March 1, 2015.

You testified that at the time of your application in October 2015, your husband had recently lost employment. You testified that you were applying to adjust your husband's income, and did not think that you would be disenrolled from your Medicaid Managed care plan.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for twelve continuous months whether or not their income changes. This is referred to as "continuous coverage." Your continuous coverage period would therefore have lasted from the date of your first eligibility for that program which was January 1, 2015 and would continue twelve months until December 31, 2015, as long as none of the above mentioned events occurs.

Just as a person should not be disenrolled for an increase in income the same holds true if a person's income changes, and decreases during those months. By updating your application for financial assistance to add your husband's change in income, you should not have been disenrolled from your Managed Care plan effective October 31, 2015.

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Since the October 10, 2015, disenrollment notice was improperly issued it is RESCINDED.

Your case is RETURNED to NYSOH to ensure your Medicaid Managed Care plan remains in effect for November 1, 2015 to November 30, 2015.

## **Decision**

The October 10, 2015, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to ensure your Medicaid Managed Care plan remains in effect for November 1, 2015 to November 30, 2015.

**Effective Date of this Decision:** July 21, 2016

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

You were incorrectly disenrolled from your Medicaid Managed Care plan effective October 31, 2015.

You remain eligible for Medicaid, and enrolled in a Managed Care plan for that month.

## **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

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The October 10, 2015, disenrollment notice is RESCINDED.

Your case is RETURNED to NYSOH to ensure your Medicaid Managed Care plan remains in effect for November 1, 2015 to November 30, 2015.

You were incorrectly disenrolled from your Medicaid Managed Care plan effective October 31, 2015.

You remain eligible for Medicaid, and enrolled in a Managed Care plan for that month.

### **Legal Authority**

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

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

