



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

Notice of Decision

Decision Date: August 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000007344

[REDACTED]

Dear [REDACTED],

On August 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 6, 2015, eligibility determination, and March 6, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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: August 24, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP00000007344

[REDACTED]

Issue

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

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 NY State of Health properly determine that your newborn child was no longer eligible to remain enrolled in her Medicaid Managed Care plan effective March 31, 2015?

Procedural History

On February 5, 2015, NY State of Health (NYSOH) received your updated application for financial assistance with your health insurance.

On February 6, 2015, an eligibility determination notice was issued finding you no longer eligible for Medicaid, but that your coverage would continue until January 31, 2016. Your child was found conditionally eligible for Medicaid effective February 1, 2015. Her eligibility was based on the condition that you provide documentation to confirm her citizenship status and Social Security number by May 8, 2015.

On March 6, 2015, an eligibility determination notice was issued finding your child conditionally eligible for Medicaid effective February 1, 2015, you were asked to confirm her citizenship status and Social Security number by providing documentation before May 6, 2015.

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Also on March 6, 2015, a disenrollment notice was issued terminating your child's coverage with her Medicaid Managed care plan effective March 31, 2015.

On March 18, 2015, documents were verified in your account but no documents are visible in the NYSOH database.

On March 19, 2015 NYSOH issued an eligibility determination notice stating that your daughter was eligible for Medicaid, effective February 1, 2015. The notice further stated that she could continue to access her benefits through fee-for-service Medicaid.

On May 13, 2015, NYSOH issued an enrollment confirmation notice stating that your daughter did not need to pick a Medicaid Managed Care plan.

On May 15, 2015, an eligibility determination notice was issued finding your child eligible for Medicaid effective February 1, 2015.

On May 15, 2015, NYSOH issued an enrollment confirmation notice stating that your daughter did not need to pick a Medicaid Managed Care plan.

On May 28, 2015, an eligibility determination was made finding your child eligible for Medicaid effective February 1, 2015.

Also on May 28, 2015, an enrollment confirmation notice was issued confirming your enrollment in a Medicaid Managed Care plan starting March 1, 2015, and your child's enrollment which would begin July 1, 2015.

On February 23, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your child's Medicaid Managed Care plan, requesting that it begin March 1, 2015.

On August 3, 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 insurance for your newborn child.
- 2) Your child was born on [REDACTED]
- 3) Your February 5, 2015 application states you will be filing your 2015 taxes as Single, and will claim your child as a dependent.

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- 4) The February 5, 2015, application states you were in the process of applying for a Social Security Number for your child. It also stated she was a U.S. Citizen.
- 5) On February 21, 2015 you uploaded a document from your employer stating your employer sponsored insurance with Health Republic would be terminated effective February 28, 2015. See Document [REDACTED]
- 6) On February 6, 2015, you were asked to provide documentation confirming your child's citizenship status and Social Security number by May 8, 2015.
- 7) You testified that you did call in before the deadline and provided your child's Social Security number in February, 2015, again in July, 2015, and again in February, 2016 when you provided documentation.
- 8) Your NYSOH account shows a copy of your child's Social Security card faxed on February 19, 2016, and found invalid as a proof of income on March 9, 2016. See Document: [REDACTED]
- 9) An incident # [REDACTED] is on file with NYSOH which states in part: "[REDACTED] SSN was entered prior to her initial due date of 5/08/15 by NYSOH rep (sic) incorrectly. On 3/16/15, a disenrollment notice was sent. SSN was corrected and MMC coverage restored to 7/1/15."
- 10) An incident # [REDACTED] is on file with NYSOH which explains that the enrollment history for your child shows an enrollment for her Medicaid Managed Care plan for 3/1/15-3/31/15. No notices were in the account confirming the enrollment, the Medicaid system did not reflect the coverage, and that Medicaid systems need to be updated showing the correct coverage periods for your child.
- 11) On March 6, 2015, a disenrollment notice was issued terminating your child's coverage with her Medicaid Managed care plan effective March 31, 2015.
- 12) You testified that you have medical costs which you incurred and were not covered under Medicaid fee-for-service for your child for the months of March, April, and May in the amount of approximately \$1,600.00.
- 13) You currently reside in Nassau, County.

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

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Applicable Law and Regulations

Medicaid Pregnant Woman

Medicaid can be provided through the 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).

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

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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 is \$15,930.00 for a two-person household (80 Fed. Reg. 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 15th 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 15th of a given month will take effect the month after the following month.

Continuous Coverage

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their Marketplace 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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The first issue under review is 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.

Your child was born on [REDACTED]. You then updated your application with NYSOH on February 5, 2015.

On February 6, 2015, an eligibility determination notice was issued finding your child conditionally eligible for Medicaid effective February 1, 2015. Her eligibility was based on the condition that you provide documentation to confirm her citizenship status and Social Security Number by May 8, 2015.

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 February 6, 2015, an eligibility determination notice issued finding your daughter conditionally eligible for Medicaid effective February 1, 2015 on the condition that she confirm her citizenship status and Social Security number by May 8, 2015 is MODIFIED to state your daughter is eligible for Medicaid February 1, 2015.

The second issue is whether NYSOH properly determined that your newborn child was no longer eligible to remain enrolled in her Medicaid Managed Care plan effective March 31, 2015

Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid social security number.

Since there is no notice indicating why your child had been disenrolled, it must be assumed her disenrollment was due to the lack of providing a Social Security Number, which as discussed above, is not a valid reason for delaying enrollment in a Medicaid Managed Care plan for a newborn child.

NYSOH representatives filed incident acknowledges an error in entering your child's Social Security number before the due date of May 8, 2015 for such documents. An incident # [REDACTED] is on file with NYSOH which states in part: "[REDACTED] SSN was entered prior to her initial due date of 5/08/15 by NYSOH rep (sic) incorrectly. On 3/16/15, a disenrollment notice was sent. SSN was corrected and MMC coverage restored to 7/1/15."

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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 15th 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

The credible evidence of the record therefore indicates that you complied with the requirements of NYSOH for enrollment in your child's Medicaid Managed Care plan, and enrollment should have been allowed after your February 5, 2015 application, resulting in a start date of March 1, 2015 for your child's plan.

Accordingly, the March 6, 2015, disenrollment notice terminating your child's coverage with her Medicaid Managed care plan effective March 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to effectuate the above changes and ensure your child is enrolled in her Medicaid Managed Care plan effective March 1, 2015.

Decision

The February 6, 2015, an eligibility determination notice is **MODIFIED** to state your daughter is eligible for fee-for-service Medicaid effective February 1, 2015.

The March 6, 2015, disenrollment notice terminating your child's coverage with her Medicaid Managed care plan effective March 31, 2015 is **RESCINDED**.

Your case is **RETURNED** to NYSOH to effectuate the above changes and ensure your child is enrolled in her Medicaid Managed Care plan effective March 1, 2015.

Effective Date of this Decision: August 24, 2016

How this Decision Affects Your Eligibility

Your newborn child's eligibility for and enrollment in a Medicaid Managed Care plan should not have been contingent on your providing her social security number.

Your case is being sent back to NYSOH to reinstate your child's coverage in her Medicaid Managed Care plan as of March 1, 2015.

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 after the date 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 date 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 February 6, 2015, an eligibility determination notice is MODIFIED to state your daughter is eligible for fee-for-service Medicaid effective February 1, 2015.

The March 6, 2015, disenrollment notice terminating your child's coverage with her Medicaid Managed care plan effective March 31, 2015 is RESCINDED.

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Your newborn child's eligibility for and enrollment in a Medicaid Managed Care plan should not have been contingent on your providing her social security number.

Your case is being sent back to NYSOH to reinstate your child's coverage in her Medicaid Managed Care plan as of March 1, 2015.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

