



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

Notice of Decision

Decision Date: December 8, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009132

[REDACTED]

[REDACTED]

Dear [REDACTED],

On November 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 2, 2016 eligibility determination and July 13, 2016 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.

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009132

[REDACTED]

[REDACTED]

Issues

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

Did NY State of Health provide a timely determination of your Medicaid eligibility as of July 2, 2016?

Did NY State of Health properly determine that your Medicaid Managed Care plan began August 1, 2016?

Procedural History

On October 23, 2015, your application for financial assistance was automatically renewed. On October 23, 2015, NY State of Health (NYSOH) issued a renewal notice advising you that you were determined eligible to enroll in the Essential Plan, effective January 1, 2016. This same notice directed you to select a plan for enrollment.

On December 19, 2015 you updated your application to NYSOH to indicate that your expected yearly income for 2016 was \$0.00.

On December 20, 2015, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided did not match what was obtained from State and

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Federal data sources. You were asked to submit income documentation for your household by January 4, 2016.

As no income documentation was submitted by January 4, 2016, NYSOH redetermined your eligibility on March 7, 2016.

On March 12, 2016, NYSOH issued a notice of eligibility redetermination which stated that you were eligible to purchase a qualified health plan at full cost through NYSOH, effective April 1, 2016.

On March 21, 2016, you updated your application to NYSOH.

On March 22, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided did not match what was obtained from State and Federal data sources. You were asked to submit income documentation for your household by April 6, 2016.

On March 24, 2016 a letter was uploaded to your NYSOH account. This letter, written and signed by you, indicates that you were currently unemployed, having been injured and terminated for missing too much time from work.

On April 1, 2016, NYSOH invalidated this documentation as you had submitted an attestation of no income, however, State and Federal data sources indicated wages in the fourth quarter of 2015.

On April 5, 2016, NYSOH issued a notice advising you that the income documentation you had submitted was insufficient to resolve the inconsistency in your account and additional income documentation was required.

On April 15, 2016, your 2015 income tax return was uploaded to your account.

On April 19, 2016, NYSOH invalidated this documentation as a letter of separation was required.

On April 20, 2016, NYSOH issued a notice advising you that the income documentation you had submitted was insufficient to resolve the inconsistency in your account and additional income documentation was required.

On April 22, 2016, a letter was uploaded to your NYSOH account. This letter, written by you, indicates that you were terminated from your employer in December of 2015.

On April 25, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the pending Medicaid status, requesting to be enrolled in Medicaid.

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On April 26, 2016, NYSOH invalidated the April 22, 2016 upload as you were attesting to no income, yet Federal and State data sources were indicating wages in the fourth quarter of 2015, therefore a letter of separation was required or proof of applying for unemployment insurance benefits.

On April 27, 2016, NYSOH issued a notice advising that the income documentation you submitted was insufficient to resolve the inconsistency in your account and additional income documentation was required.

On May 3, 2016, a letter from the NYS Department of Labor regarding an investigation into unemployment benefits and a DB-450 form for NYS Short Term Disability Benefits were uploaded to your NYSOH account.

On June 5, 2016, NYSOH redetermined your eligibility for financial assistance. On June 6, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible to purchase a qualified health plan at full cost, effective July 1, 2016.

On June 7, 2016, a letter from the NYS Department of Labor advising that you must request a hearing to have your entitlement to benefits reviewed was uploaded to your NYSOH account.

On June 8, 2016, NYSOH invalidated this income documentation as you were attesting to no income and a letter was required to confirm that you had no income.

On June 8, 2016, NYSOH reviewed your application for health insurance through NYSOH.

On June 9, 2016, NYSOH issued a notice stating more information was needed to make a determination. The notice explained the income documentation you provided NYSOH did not match what was obtained from State and Federal data sources. You were asked to submit income documentation for your household by June 24, 2016.

Also on June 9, 2016, NYSOH issued a notice advising that the income documentation you submitted was insufficient to resolve the inconsistency in your account and additional income documentation was required.

On June 29, 2016, a letter was uploaded to your NYSOH. This letter, written and signed by you, stated that you were not currently employed and have no income.

On July 2, 2016, NYSOH issued an eligibility determination notice was finding you eligible for Medicaid effective June 1, 2016.

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On July 12, 2016 you selected a Medicaid Managed Care plan.

On July 13, 2016, an enrollment confirmation notice was issued confirming your selection of a Medicaid Managed Care plan on July 12, 2016. The notice confirmed your enrollment in a plan starting August 1, 2016.

On November 7, 2016, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Your Authorized Representative requested that the hearing be adjourned.

On November 18, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, [REDACTED] acted as your Authorized Representative and assisted you with your testimony. Under oath, you and your Authorized Representative waived your right to formal notice of the hearing. 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) Your authorized representative testified that you are appealing your eligibility start date for Medicaid as well as your enrollment start date of your Medicaid Managed Care plan.
- 2) On March 24, 2016 a letter was uploaded to your NYSOH. This letter, written and signed by you, indicates that you were currently unemployed, having been injured and terminated for missing too much time from work.
- 3) On April 15, 2016, your 2015 income tax return was uploaded to your account.
- 4) On April 22, 2016, a letter was uploaded to your NYSOH account. This letter, written by you, indicates that you were terminated from your employer in December of 2015.
- 5) On May 3, 2016, a letter from the NYS Department of Labor regarding an investigation into unemployment benefits and a DB-450 form for NYS Short Term Disability Benefits were uploaded to your NYSOH account.
- 6) On June 7, 2016, a letter from the NYS Department of Labor advising that you must request a hearing to have your entitlement to benefits reviewed was uploaded to your NYSOH account.

- 7) On June 29, 2016, a letter was uploaded to your NYSOH. This letter, written and signed by you, stated that you were not currently employed and have no income.
- 8) The record reflects that you selected a Medicaid Managed Care plan on July 12, 2016.
- 9) Your authorized representative testified that in 2015, you worked with a certified application counselor and selected to auto-renew your enrollment, and because of this, you were not looking for a renewal notice at the end of 2015.
- 10) Your authorized representative testified that you changed your account preferences from receiving paperless alerts to receiving notices via regular mail at some point in March 2016 or April 2016.
- 11) You testified that you were unable to access the e-mail account that your electronic notices were being sent to.
- 12) On January 12, 2014, NYSOH sent you a notice confirming your selection of receiving electronic notices from NYSOH. This notice advised that you must advise NYSOH of any changes in your mailing address, email address, and telephone number.
- 13) Your authorized representative testified that you did not receive the October 23, 2015 renewal notice asking you to update your NYSOH account.
- 14) Your authorized representative testified that you did receive the March 22, 2016 notice advising you that additional income information was needed to determine your eligibility; the April 20, 2016 notice advising you that the income documentation you submitted was insufficient to resolve the inconsistency in your account; and the June 9, 2016 notice advising you that additional income documentation was needed to determine your eligibility.
- 15) Your authorized representative testified that you did not receive the December 20, 2015 notice advising you that additional income information was needed to determine your eligibility.
- 16) Your authorized representative testified that she is not sure if you received the April 5, 2016 and April 27, 2016 notices advising you that the income documentation you submitted was insufficient to resolve the inconsistency in your account.

- 17) You testified that you want your Medicaid and Medicaid Managed Care plan to begin on January 1, 2016 because you have medical bills for all the months that you were without coverage.
- 18) You testified that you expect to file your 2016 income tax return as single and will claim no dependents or deductions.
- 19) You testified that you began receiving unemployment insurance benefits approximately six weeks prior to the hearing. You testified that you receive approximately \$262.00 per week before child support is deducted.
- 20) You testified that you have not received any earned income in 2016 and that you are not currently working.
- 21) You testified that you reside in Saratoga County.

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

Applicable Law and Regulations

Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates that may have been provided by the individual (45 CFR § 155.335(h)).

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, 13 ADM-03(III)(F)).

Medicaid Managed Care (MMC) 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; NY Social Services Law § 364-j(1)(c); 18 NYCRR § 360-10.3(h); Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13 ADM-03(III)(F)).

Electronic Notices

Applicants may choose to receive notices and information from NYSOH either by electronic alerts or by regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant's account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

NYSOH must confirm an election to receive notices electronically via regular mail (42 CFR § 435.918(b)(1)).

Additionally, if an electronic alert regarding a notice in an individual's NYSOH account fails, NYSOH must send out the notice by regular mail within three days of the failed alert (42 CFR § 435.918(b)(5)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income (45 CFR § 155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR § 155.315(f) 42 CFR § 435.952).

Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that

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applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the application (42 CFR § 435.912).

Legal Analysis

The first issue is whether NYSOH's provided you with timely determination of your Medicaid eligibility as of June 1, 2016.

You were originally found eligible for Medicaid effective January 1, 2015.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 23, 2015 renewal notice stated that you were eligible for the Essential Plan effective January 1, 2016. This same notice directed you to select a plan.

Because you were determined eligible for the Essential Plan, effective January 1, 2016, and you did not timely respond to this notice, you were terminated from Medicaid, effective December 31, 2015.

You testified and the record reflects that you had elected to receive alerts regarding notices from NYSOH electronically during this time period. You testified that you did not have access to your e-mail account for an extended period of time, which included when the alert of the October 23, 2015 notice was sent. There is no evidence in the record that the electronic alert to your e-mail account failed.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that you were determined eligible for the Essential Plan, effective January 1, 2016 and that you needed to select a plan for enrollment.

Notwithstanding your testimony that you did not receive the renewal notice, you updated your NYSOH account on December 19, 2015. The income amount that was entered into this application did not match federal and state data sources. As a result, NYSOH asked that you submit additional documentation to confirm your income.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income.

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If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On March 24, 2016, April 15, 2016, April 22, 2016, May 3, 2016, June 7, 2016, and June 27, 2016 you submitted documentation regarding your income. The first five submissions were invalidated as they did not contain sufficient information to resolve the inconsistency in your account.

The June 29, 2016 submission was the first submission to resolve the inconsistency between your attestation of \$0.00 income and the information from State and Federal data sources that you had earnings for the fourth quarter of 2015. This is the first letter which specifically states that you have no income and was signed by you.

Therefore, your application was considered complete as of June 27, 2016 for purposes of issuing an eligibility determination.

NYSOH must provide Medicaid applicants notice of their eligibility determination within 45 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of the completed application to the date NYSOH notifies the applicant of its decision.

NYSOH issued an eligibility determination notice on July 2, 2016 that stated you were eligible for Medicaid effective June 1, 2016. Since NYSOH issued an eligibility determination five days from the date your application was considered complete, the July 2, 2016 eligibility determination was timely.

Therefore, the July 2, 2016 eligibility determination stating that you were eligible for Medicaid, effective June 1, 2016, was correct and must be AFFIRMED.

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

The record reflects that you contacted NYSOH on July 12, 2016 and 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 from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

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Since the July 2, 2016 eligibility determination notice was timely issued, you were able to select a Medicaid Managed Care plan as of June 1, 2016. Your plan would therefore properly take effect on the first day of the next month following after July 2016; that is, on August 1, 2016.

Therefore, the July 12, 2016 enrollment confirmation notice stating that your enrollment in your Medicaid Managed Care plan would be effective August 1, 2016, was correct and must be AFFIRMED.

Decision

The July 2, 2016 eligibility determination was timely is AFFIRMED.

The July 12, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 8, 2016

How this Decision Affects Your Eligibility

This decision does not affect your eligibility.

You are eligible for Medicaid effective June 1, 2016.

Your enrollment in your Medicaid Managed Care plan is August 1, 2016.

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)).

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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
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- By fax: 1-855-900-5557

Summary

The July 2, 2016 eligibility determination was timely is AFFIRMED.

This decision does not affect your eligibility.

You are eligible for Medicaid effective June 1, 2016.

The July 12, 2016 enrollment confirmation notice is AFFIRMED.

Your enrollment in your Medicaid Managed Care plan is August 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]

[REDACTED]