



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

## Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009157

[REDACTED]

Dear [REDACTED],

On November 3, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's February 26, 2016; April 10, 2016; and April 20, 2016 enrollment 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 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: November 30, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000009157



## Issues

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

Did New York State of Health (NYSOH) properly determine that your two youngest children's Medicaid Managed Care (MMC) plan had an enrollment start date of April 1, 2016?

Did NYSOH properly determine that your three eldest children's MMC plan had an enrollment start date of May 1, 2016?

Did NYSOH properly determine that you and your spouse's MMC plan had an enrollment state of June 1, 2016?

## Procedural History

On February 25, 2016, NYSOH received your family's application for health insurance.

On February 26, 2016, NYSOH issued three notices:

- a. An eligibility determination stating that your two youngest children were eligible for Medicaid, effective as of February 1, 2016;
- b. An enrollment notice confirming that as of February 25, 2016, your two youngest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016;
- c. A notice stating that you, your spouse and three eldest children may be eligible for health insurance through NYSOH, but you must submit income documentation by March 12, 2016, to confirm that you information you provided in your application was accurate.

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On February 27, 2016, and February 29, 2016, additional documentation was uploaded to your NYSOH account [REDACTED]; [REDACTED]).

On March 9, 2016, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency; however the documentation appears to be insufficient to resolve the request. The notice stated that additional "Proof of Income," for your spouse, was needed to make an eligibility determination.

On March 14, 2016, additional documentation was uploaded to your NYSOH account [REDACTED]).

On March 22, 2016, NYSOH issued an eligibility determination notice stating that all of your children were eligible for Medicaid, and you and your spouse were eligible to enroll in the Essential Plan, effective as of May 1, 2016.

On April 9, 2016, your NYSOH account was updated.

On April 10, 2016, NYSOH issued an eligibility determination notice stating, in relevant part, that you, your spouse and all of your children were eligible for Medicaid.

Also on April 10, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that your three eldest children were enrolled in a MMC plan with a plan enrollment start of May 1, 2016.

On April 20, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you and your spouse were enrolled in a MMC plan with a plan enrollment start date of June 1, 2016.

On April 25, 2016, you spoke to NYSOH's Account Review Unit and requested an appeal insofar as your family's MMC plan enrollment start dates.

On November 3, 2016, you had a telephone hearing with a Hearing Officer from the NY State of Health Appeals Unit. The record was developed during the hearing and closed at the end of the proceeding.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) You testified that you are appealing the Medicaid Managed Care plan enrollment start dates of your entire family.
- 2) According to your NYSOH account, NYSOH received your application for financial assistance on February 25, 2016.

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- 3) According to your NYSOH account, you expect to file your 2016 federal income tax return, with the tax status of married filing jointly, and claim your five children as dependents on that return.
- 4) On February 27, 2016, the first page of your 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your NYSOH account. The return reflected that your family's adjusted gross income was \$28,785.00 in 2015 [REDACTED]).
- 5) According to your NYSOH account, on March 8, 2016, NYSOH invalidated the income documentation you submitted on February 27, 2016, because the signature page of the tax return was not submitted.
- 6) On March 9, 2016, NYSOH issued a notice stating that you have submitted documentation to resolve the inconsistency; however the documentation appears to be insufficient to resolve the request. The notice stated that additional "Proof Income," for your spouse, was needed to make an eligibility determination [REDACTED]).
- 7) On March 14, 2016, the signature page of your 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your NYSOH account [REDACTED]).
- 8) On March 21, 2016, a NYSOH representative updated your account to reflect that your expected annual household income was \$56,090.00.
- 9) According to your NYSOH account, on April 9, 2016, the income documentation uploaded on March 14, 2016, was verified as acceptable proof of income.
- 10) Your two youngest children, born on January 13, 2016, were enrolled in a MMC plan on February 25, 2016.
- 11) Your three eldest children, all between the ages of one and nineteen, were enrolled in a MMC plan on April 9, 2016.
- 12) You and your spouse were enrolled in a MMC plan on April 9, 2016.

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

## **Applicable Law and Regulations**

### Medicaid- Newborn Child

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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).

#### Medicaid- Children at least one but younger than nineteen:

A child who is at least one year of age but younger than nineteen 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 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Health Administrative Directive 13 OHIP/ADM-03).

#### Presumptive Eligibility for Children:

A child under the age of 19 shall be presumed to be eligible for medical assistance on the date that a qualified entity determines, based on preliminary information, that the modified adjusted gross income of the child does not exceed the applicable level for eligibility.

The presumptive eligibility period begins on the day that the determination is made. If an application for Medicaid is filed on the child's behalf by the last day of the month following the month in which the determination of presumptive eligibility was made, the presumptive period ends on the day that NYSOH makes a determination of eligibility based on that application. If the application is not filed on the child's behalf by the last day of the month following the month the determination of presumptive eligibility was made, the presumptive period ends on that day (see 42 U.S.C § 1396r-1a); 42 CFR § 435.1102; N.Y. Soc. Serv. Law § 364-i(4)).

#### Medicaid Managed Care Start Date

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; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

#### 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)).

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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 (45 CFR §155.315(f)).

## **Legal Analysis**

The first issue under review is whether your two youngest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

The record reflects that your two youngest children were found eligible for Medicaid and enrolled in a MMC plan on February 25, 2016.

The date on which a MMC 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.

Since your two youngest children were enrolled in a MMC plan on February 25, 2016, the plan enrollment start date was properly determined to be April 1, 2016.

The February 26, 2016, enrollment notice confirming that as of February 25, 2016, your two youngest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016 is AFFIRMED.

The second issue is whether your three eldest children were enrolled in a MMC plan with a plan enrollment start date of May 1, 2016.

You submitted a financial assistance application through NYSOH for your children on February 25, 2016. On the following day NYSOH issued a notice stating that your child may be eligible for health insurance through NYSOH but more information was needed to make a determination. The notice directed you to submit income documentation to confirm that the information you provided in your application was accurate.

Presumptive eligibility is a means of immediately providing Medicaid covered care and services to children under the age of 19. If the child is found to be presumptively eligible for Medicaid, they are provided full Medicaid care and services for a limited period of time during which a full determination is performed. A child is presumptively eligible, if based on preliminary information, the modified adjusted gross income of the child does not exceed the applicable level for eligibility.

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According to your February 25, 2016 NYSOH application, you attested to an expected yearly income of \$30,607.00. Furthermore, you attested to filing a 2016 federal income tax return with the tax status of married filing jointly, with your spouse, and expected to claim five dependents on that return. Therefore, you were in a seven-person household.

Based on your household size, your children would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is an expected income of \$56,565.00.

Since you attested to an income below the threshold for Medicaid on your February 25, 2016 NYSOH application, your three eldest children should have been found presumptively eligible for Medicaid as of February 25, 2016.

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.

Since your child should have been found presumptively eligible for Medicaid on February 25, 2016, the Medicaid Managed Care plan should have been effective April 1, 2016.

The April 9, 2016 enrollment notice is MODIFIED to state that your three eldest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

The third issue is whether you and your spouse were enrolled in a MMC plan with a plan enrollment start date of June 1, 2016.

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.

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 February 26, 2016, NYSOH issued a notice stating that you and your spouse may be eligible for health insurance through NYSOH, but you must submit income documentation by March 12, 2016, to confirm that you information you provided in your application was accurate.

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).



On February 27, 2016, the first page of your 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your NYSOH account. On March 8, 2016, NYSOH invalidated that documentation because the signature page of the tax return was not provided. On the following day NYSOH issued a notice stating that the documentation submitted to resolve the inconsistency was insufficient.

On March 14, 2016, the signature page of your 2015 Form 1040 U.S. Individual Income Tax Return was uploaded to your NYSOH account. The return reflected that your family's adjusted gross income was \$28,785.00 in 2015. However, on March 21, 2016, a NYSOH representative updated your account to reflect that your expected annual household income was \$56,090.00.

The record reflects that the income documentation uploaded on March 14, 2016, was verified as acceptable proof of income on April 9, 2016. Since your application for financial assistance was complete as of March 14, 2016, we must assume that this is the information that would have been used by NYSOH had the income documentation been properly verified.

Since the application was complete as of March 14, 2016, it must take effect on the first day of the following month; that is on April 1, 2016.

The April 20, 2016 enrollment notice is MODIFIED to state that you and your spouse were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

## **Decision**

The February 26, 2016, enrollment notice confirming that as of February 25, 2016, your two youngest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016 is AFFIRMED.

The April 9, 2016, enrollment notice is MODIFIED to state that your three eldest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

The April 20, 2016, enrollment notice is MODIFIED to state that you and your spouse were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

**Effective Date of this Decision:** November 30, 2016

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

Your two youngest children's MMC has an enrollment start date of April 1, 2016.

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Your three eldest children's MMC has an enrollment start date of April 1, 2016.

You and your spouse's MMC has an enrollment start date of April 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 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

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## **Summary**

The February 26, 2016, enrollment notice confirming that as of February 25, 2016, your two youngest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016 is AFFIRMED.

The April 9, 2016, enrollment notice is MODIFIED to state that your three eldest children were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

The April 20, 2016, enrollment notice is MODIFIED to state that you and your spouse were enrolled in a MMC plan with a plan enrollment start date of April 1, 2016.

Your two youngest children's MMC has an enrollment start date of April 1, 2016.

Your three eldest children's MMC has an enrollment start date of April 1, 2016.

You and your spouse's MMC has an enrollment start date of April 1, 2016.

## **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:**

