



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

Notice of Decision

Decision Date: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009917

[REDACTED]

Dear [REDACTED],

On December 2, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s May 26, 2016 eligibility redetermination.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000009917



Issues

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

Was your appeal of NY State of Health's December 19, 2015 cancellation notice and the December 20, 2016 eligibility determination notices timely?

Did NY State of Health properly determine that you were not eligible for Medicaid as of January 1, 2016?

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

Procedural History

On October 22, 2015, NY State of Health (NYSOH) issued a notice that it was time to renew your health coverage. That notice stated you qualified for health coverage under Medicaid because federal and state data sources showed your income was between \$0 and \$16,243.00, which was the allowable range for Medicaid based on your household size. This eligibility was effective as of January 1, 2016. That notice further stated that you could not enroll in your current health plan for next year and you needed to select a different health plan by December 15, 2015 to continue your coverage.

On December 15, 2015, NYSOH received your updated application for health insurance; specifically, the income information was updated.

Also on December 15, 2015, you selected a Medicaid Managed Care plan.

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On December 16, 2015, NYSOH issued a notice of eligibility redetermination, based on your updated December 15, 2015 application, 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.

Also on December 16, 2015, NYSOH issued an enrollment confirmation notice stating that your Medicaid Managed Care plan would begin January 1, 2016.

On December 19, 2015, NYSOH received your updated application for health insurance; specifically, the income information was updated.


Also on December 19, 2015, NYSOH prepared a preliminary eligibility redetermination that stated you were eligible to enroll in a qualified health plan through NYSOH and receive tax credits of up to \$263.00 per month to help pay for the cost of your insurance, effective January 1, 2016.

Also, On December 19, 2015, NYSOH issued a cancellation notice stating that your Medicaid Managed Care plan would end effective January 1, 2016 because you were no longer eligible to enroll in your current health insurance.

On December 20, 2015, NYSOH issued an eligibility redetermination notice based on the information contained in the December 19, 2016 application. That notice stated that you were newly eligible for up to \$263.00 per month in advance payments of the premium tax credit (APTC), newly conditionally eligible for cost-sharing reductions (CSR), and ineligible for Medicaid. This eligibility redetermination was based on your reported household income of \$24,000.00. This eligibility determination was effective January 1, 2016.

On December 21, 2015, NYSOH received your updated application for health insurance; specifically, the income information was updated.

On December 22, 2015, NYSOH issued a notice stating that you may be eligible for health insurance but more information was needed to make a determination. This was because the income information you provided did not match what NYSOH had obtained from State and Federal data sources and NYSOH was unable to make a determination until you submitted additional income documentation. You had until January 6, 2016 to submit income documentation for your household.

On December 24, 2015, you uploaded to your NYSOH account a copy of your 2014 Form 1040 U.S. Individual Income Tax Return. (see Document ).

On January 5, 2016, your proof of income documentation was verified by NYSOH, but no eligibility determination was made at that time based upon the verified income.

On March 8, 2016, NYSOH updated your household income on your application to \$12,195.00 and redetermined your eligibility.

On March 12, 2016, NYSOH issued an eligibility redetermination notice based on the March 8, 2016 system-updated application for financial assistance stating that you were eligible for Medicaid, effective March 1, 2016.

On May 25, 2016, NYSOH received your updated application for health insurance; specifically, the income information was updated.

Also on May 25, 2016, NYSOH prepared a preliminary eligibility redetermination that stated you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until November 30, 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 May 1, 2016.

Also on May 25, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your Medicaid coverage was terminated effective January 1, 2016, and did not begin again until March 1, 2016.

On May 26, 2016, NYSOH issued a notice of eligibility determination based on the updated May 25, 2016 application, stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until November 30, 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 May 1, 2016.

Also on May 26, 2016, NYSOH issued an enrollment confirmation notice confirming your selection of a Medicaid Managed Care plan on May 25, 2016. The notice confirmed your enrollment in that plan starting July 1, 2016.

On December 2, 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:

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- 1) You expect to file your 2016 federal income tax return as single and claim no dependents.
- 2) You testified that you are seeking insurance for yourself.
- 3) You testified that you are self-employed, you are paid on commission, and your income varies greatly month to month and year to year.
- 4) According to your NYSOH account and your testimony, you live in Rensselaer County, New York.
- 5) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 6) You testified you did not receive any electronic alerts regarding any changes in your health plan and did not receive any letter notices either.
- 7) According to your NYSOH account, you were found eligible for Medicaid coverage, effective January 1, 2016, as reflected in the October 22, 2015 notice.
- 8) You testified that when you spoke to NYSOH representative on December 15, 2015, you were told you were only eligible for Medicaid and that you needed to select a Medicaid Managed Care plan which you did at that time. You testified you specifically asked if you would be covered by Medicaid starting January 1, 2016 and were told yes. You testified that you asked this because you knew you had a regularly scheduled doctor's visit scheduled for early January 2016.
- 9) According to the December 15, 2015 updated application, you attested to an expected annual household income of \$24,000.00. You testified that, at the time you submitted your application, this was just an estimate and this amount did not take into account various deductions you may be entitled to take on your federal tax return. You testified that you use an accountant for the preparation and submission of your yearly federal and state tax returns.
- 10) According to your NYSOH account, on December 19, 2016, the system cancelled your Medicaid Managed Care plan effective January 1, 2016.
- 11) According to your NYSOH account, on December 21, 2015, you updated your application to state your annual income as \$12,195.00.

- 12) According to your NYSOH account and your testimony, on December 24, 2015, you uploaded to your account a copy of your 2014 Form 1040 U.S. Individual Income Tax Return.
- 13) The record reflects that NYSOY verified your tax return as proof of income on January 5, 2016. NYSOH did not run an eligibility determination based on this verified income at this time.
- 14) You testified that you received an enrollment card from your Medicaid Managed Care plan which indicated a start date of January 1, 2016, but cannot locate the card at this time.
- 15) You testified that you went to the doctor's in early January 2016 for a regular office visit and it turned out that you needed significant follow up tests and procedures during the months of January 2016 and February 2016.
- 16) You testified that it was not until May 2016, when you started receiving various bills for medical tests and procedures that were conducted in January 2016 and February 2016, that you learned you were not covered by Medicaid insurance for these two months.
- 17) You are seeking to have your Medicaid eligibility and your Medicaid Managed Care plan enrollment made effective January 1, 2016.

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

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

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Annual Eligibility Redetermination

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

NYSOH must send an annual renewal notice that contains the information by which NYSOH will use to redetermine a qualified individual's projected eligibility for that year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)). The rules specified in 45 CFR § 155.330(f) are not pertinent here.

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)). 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)).

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 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).

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Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through 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 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 \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

Generally, 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)).

Medicaid Start 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

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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)).

Legal Analysis

The first issue under review is whether your appeal of NYSOH's December 19, 2016 cancellation notice of your Medicaid Managed Care plan and the December 20, 2015 eligibility determination notice was timely.

The record reflects that you first contacted NYSOH to file a complaint about your Medicaid eligibility on May 25, 2016. The record indicates that a formal appeal was also filed that day. While the record reflects that your appeal is based on the May 26, 2016 eligibility redetermination, your testimony and a complete review of the record indicates that eligibility determinations of December 20, 2015 and March 12, 2016 are at issue, as well as the cancellation notice dated December 19, 2015. Accordingly, the Hearing Officer has amended your appeal to include these issues.

For an appeal to have been valid on the December 19, 2015 cancellation notice of your Medicaid Managed Care plan and the December 20, 2015 eligibility redetermination that found you ineligible for Medicaid, effective January 1, 2016, an appeal should have been filed by February 18, 2016. The record reflects that you filed your appeal on May 26, 2016, which is well beyond the 60-day deadline.

You credibly testified that when you spoke with a NYSOH representative on December 15, 2015, you were told that the only health care option available to you was Medicaid and you selected a Medicaid Managed Care plan that had a start date of January 1, 2016. NYSOH issued an enrollment confirmation to this effect.

You further credibly testified that, when you spoke to the NYSOH representative on December 15, 2016, you knew you had a routine office visit scheduled for early January 2016, which is why you wanted to confirm the start date of your coverage. You testified that you could easily have postponed this office visit but, because you were informed you had Medicaid coverage starting January 1, 2016, you went forward with this office visit.

You credibly testified that you received an enrollment card from the Medicaid Managed Care plan that indicated that you had insurance coverage with them as of January 1, 2016.

In addition, the record reflects that you submitted your 2014 Form 1040 U.S. Individual Income Tax Return on December 24, 2015 as proof of your income as

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requested by NYSOH. As you did not hear anything back from NYSOH indicating that this documentation was insufficient, you testified you assumed everything was okay with your Medicaid coverage.

Also, it was not until May 2016 that you started receiving bills for various tests and procedures which were required after an early January 2016 medical check-up that you first knew that there was a problem with your Medicaid coverage.

Further, you testified that you were not notified of these changes in Medicaid coverage by electronic or regular mail.

Therefore, it is reasonable to conclude that you filed your appeal within a reasonably short time of learning in May 2016 that there was a problem with your insurance coverage and, therefore, your appeal was filed timely.

The second issue under review is whether NYSOH properly determine that you were not eligible for Medicaid as of January 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.

You updated your NYSOH account on December 21, 2015 and changed your household income to \$12,195.00.

On December 22, 2015, NYSOH issued a notice requesting you submit income documentation by January 6, 2016, to confirm your eligibility because the income information you provided did not match what NYSOH had obtained from State and Federal data sources.

On December 24, 2015, you uploaded to your NYSOH account a copy of your 2014 Form 1040 U.S. Individual Income Tax Return (see Document [REDACTED]) and on January 5, 2016, NYSOH verified that income tax return as acceptable proof of income.

Therefore, your application was considered complete as of January 5, 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.

According to your NYSOH account, your eligibility was not run until March 8, 2016. NYSOH issued an eligibility determination notice on March 12, 2016, based on the March 8, 2016 system updated application, that stated you were eligible for Medicaid, effective March 1, 2016. Since NYSOH issued an eligibility determination 67 days from the date your application was considered complete, the March 12, 2016 eligibility determination was untimely.

The record reflects that had NYSOH properly run your eligibility on January 5, 2016, you would have been found eligible for Medicaid at that time with an effective date of January 1, 2016.

Additionally, you were originally found eligible for Medicaid in an eligibility determination notice dated October 22, 2015, with your Medicaid coverage starting on January 1, 2016.

On December 16, 2015, NYSOH issued an eligibility redetermination notice that stated 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.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for twelve months, even if the household income rises above 138% of the FPL. This provision is called "continuous coverage."

Credible evidence confirms that you were eligible for Medicaid, effective January 1, 2016, and that even though your estimated annual income increased when you modified your application on December 19, 2015 it was corrected with your December 24, 2015 income document submission, such that your Medicaid eligibility should have started on January 1, 2016 and you should have remained enrolled in Medicaid for a 12-month eligibility period thereafter.

Therefore, the December 20, 2015 eligibility determination notice is **RESCINDED**. The March 12, 2016 eligibility redetermination is **MODIFIED** to state your eligibility for Medicaid is effective January 1, 2016.

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

You testified that you contacted NYSOH on December 15, 2015, 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.

On December 15, 2015, you selected a Medicaid Managed Care plan, so it properly took effect on the first day of the first month following after December 2015; that is, on January 1, 2016.

Therefore, the December 16, 2015 enrollment confirmation notice stating that your enrollment in your Medicaid Managed Care plan would be effective January 1, 2016, was correct and is **AFFIRMED**. The December 19, 2015, cancellation notice is **RESCINDED**. The May 26, 2016 enrollment confirmation notice stating that your Medicaid Managed Care plan started July 1, 2016 is **MODIFIED** to state that your plan enrollment start date is January 1, 2016.

Therefore, your case is **RETURNED** to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of January 1, 2016 through December 31, 2016.

Decision

The December 16, 2015 enrollment confirmation notice stating that your enrollment in your Medicaid Managed Care plan would be effective January 1, 2016, was correct and is **AFFIRMED**.

The December 19, 2015, cancellation notice is **RESCINDED**.

The December 20, 2015 eligibility determination notice is **RESCINDED**.

The March 12, 2016 eligibility redetermination is **MODIFIED** to state your eligibility for Medicaid is effective January 1, 2016.

The May 26, 2016 enrollment confirmation notice stating that your Medicaid Managed Care plan started July 1, 2016 is **MODIFIED** to state that your plan enrollment start date is January 1, 2016.

Your case is **RETURNED** to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of January 1, 2016 through December 31, 2016, and to notify you accordingly.

Effective Date of this Decision: January 31, 2017

How this Decision Affects Your Eligibility

Your Medicaid coverage, should have begun on January 1, 2016 and continued until December 31, 2016, barring subsequent changes in your eligibility.

The effective date of your Medicaid Managed Care plan is January 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)).

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
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Albany, NY 12211

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- By fax: 1-855-900-5557

Summary

The December 16, 2015 enrollment confirmation notice stating that your enrollment in your Medicaid Managed Care plan would be effective January 1, 2016, was correct and is AFFIRMED.

The December 19, 2015, cancellation notice is RESCINDED.

The December 20, 2015 eligibility determination notice is RESCINDED.

The March 12, 2016 eligibility redetermination is MODIFIED to state your eligibility for Medicaid is effective January 1, 2016.

The May 26, 2016 enrollment confirmation notice stating that your Medicaid Managed Care plan started July 1, 2016 is MODIFIED to state that your plan enrollment start date is January 1, 2016.

Your case is RETURNED to NYSOH to re-enroll you in your Medicaid Managed Care plan for the period of January 1, 2016 through December 31, 2016, and to notify you accordingly.

Your Medicaid coverage, should have begun on January 1, 2016 and continued until December 31, 2016, barring subsequent changes in your eligibility.

The effective date of your Medicaid Managed Care plan is January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

