



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

## Notice of Decision

Decision Date: January 4, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010069

[REDACTED]

Dear [REDACTED],

On November 29, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 2, 2016 eligibility determination notice and September 2, 2016 eligibility determination, enrollment, and disenrollment 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 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.

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: January 4, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010069

[REDACTED]

## Issues

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

Did NY State of Health (NYSOH) properly determine that you and your spouse were not eligible for Medicaid between January 1, 2016 and April 30, 2016?

Did NYSOH properly determine that you and your child were no longer eligible to be enrolled in a Medicaid Managed Care plan, effective September 30, 2016?

## Procedural History

On May 12, 2016, NYSOH received two applications in which you sought health insurance for your household. In response, NYSOH issued several responses, advising you that more information was needed.

On June 2, 2016, NYSOH issued a notice of stating that you, your spouse, and your child were eligible for Medicaid because your household income of \$14,943.00 was at or below the allowable income limit. This eligibility was effective as of May 1, 2016. You were directed to select a Medicaid Managed Care (MMC) plan.

Also on June 2, 2016, NYSOH received an update to your application for health insurance. You attested in this application that your spouse had died on [REDACTED]. You also attested in this application to seeking help with your spouse's medical bills from the prior three months. In response to this application, NYSOH

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prepared a preliminary eligibility determination stating that you and your child were eligible for Medicaid; however, your spouse was no longer eligible to purchase health coverage. It made no decision on whether your spouse was eligible to receive assistance with paying for medical bills from the prior three months.

Also on June 2, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your spouse were not found eligible for Medicaid coverage between January 1, 2016 and April 30, 2016.

On June 3, 2016, NYSOH issued an eligibility determination notice stating that your spouse no longer qualified for health coverage through NYSOH since he was deceased. His eligibility ended effective [REDACTED].

Also on June 3, 2016, NYSOH issued an additional eligibility determination notice based on the information contained in the June 2, 2016 application. The notice stated that you and your child remained eligible for Medicaid, effective June 2, 2016. However, no determination was issued with respect to your request for help with medical bills incurred by your spouse for the prior three months, despite your having asked for such assistance in the application submitted on June 2, 2016.

On June 4, 2016, NYSOH issued an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan for you and your child as of June 3, 2016. The notice stated that the MMC plan coverage for you and your child would begin effective July 1, 2016.

On September 1, 2016, NYSOH reran your household's eligibility for financial assistance.

On September 2, 2016, NYSOH issued an eligibility determination notice stating that you and your child remained eligible for Medicaid, effective October 1, 2016.

Also on September 2, 2016, NYSOH issued a disenrollment notice stating that the MMC plan coverage for you and your daughter would end effective September 30, 2016. This was because you and your child were determined to be enrolled in either a third-party health insurance plan or Medicare.

On November 28, 2016, NYSOH received a letter issued by Excellus Blue Cross Blue Shield (Excellus BCBS), dated July 25, 2016, stating that coverage for you and your child under this policy ended effective July 1, 2016.

On November 29, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional

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evidence to corroborate your testimony: letters issued by your spouse's employer confirming his gross earnings during the months of February, March and April 2016. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On December 7, 2016, you provided letters issued by your spouse's employer confirming his gross earnings during the months of January, February, March and April 2016 to the Appeals Unit through your NYSOH online account.

Accordingly, the record was closed on December 7, 2016.

## **Findings of Fact**

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

- 1) Your account reflects that as of your June 2, 2016 application you expected to file your 2016 federal income tax return as married filing jointly, and claim your one child as a dependent.
- 2) Your child is 23 years old.
- 3) You, your spouse, and your child were initially found eligible for Medicaid, effective May 1, 2016. You testified that you are seeking retroactive Medicaid coverage for not only your spouse between January 1, 2016 and April 30, 2016, but for yourself as well, since you incurred an out-of-pocket medical expense for an appointment you attended during the month of April 2016.
- 4) Your June 2, 2016 application reflected that your spouse received exactly \$14,943.00 from his employer, [REDACTED] for the period between January 1, 2016 and May 31, 2016.
- 5) You testified, and your account, reflects that your spouse died on [REDACTED]
- 6) You and your child were enrolled in an MMC with such coverage beginning on July 1, 2016. However, you and your child were disenrolled from that coverage effective September 30, 2016 due to enrollment in either third-party health insurance plan or Medicare.
- 7) You testified, and the record reflects, that neither you nor your child have been enrolled in a third-party health insurance plan after June 30, 2016.

- 8) At the hearing, you testified that in addition to your request for assistance with paying for medical bills incurred by your spouse between January 1, 2016 and April 30, 2016, you were also seeking (1) to have your Medicaid begin retroactively as of April 1, 2016 to cover a medical expense that you incurred during that month and (2) to have you and your child's MMC plan coverage reinstated as of October 1, 2016.
- 9) On November 28, 2016, you provided to NYSOH a letter issued by Excellus Blue Cross Blue Shield (Excellus BCBS), dated July 25, 2016, stating that coverage for you, your spouse and your child were covered by this policy from January 1, 2016 to July 1, 2016.
- 10) On December 7, 2016, you provided to NYSOH Appeals Unit letters issued by your spouse's former employer, [REDACTED], [REDACTED], reflecting that your spouse received \$6,540.00 during January 2016, \$5,395.00 during February 2016, \$2,092.80 during March 2016 and \$915.60 during April 2016.

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); NY Social Services Law § 366(1)(b)).

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 2016 FPL, which is \$20,160.00 for a three-person household (81 Federal Register 4036).

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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid between January 1, 2016 and April 30, 2016

You and your spouse were in a three-person household; you had intended to file your taxes with a tax filing status of married filing jointly and claim your one child as your only dependent on your tax return.

You and your spouse were initially found eligible for Medicaid in the June 2, 2016 eligibility determination notice. According to this notice, Medicaid coverage for you and your spouse began effective May 1, 2016.

You testified that you are seeking to have Medicaid coverage for you and your spouse retroactively applied for the months of January, February, March and April 2016. While there was no eligibility determination issued with respect to you and your spouse on your eligibility for retroactive Medicaid coverage between January 1, 2016 and April 30, 2016, we are permitted to review the eligibility of you and your spouse, in part because your June 2, 2016 application requested assistance in paying medical bills for the prior three months.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

Since you and your spouse were found eligible for Medicaid coverage beginning May 1, 2016, he might be eligible for retroactive coverage for up to three months prior to that date, beginning no earlier than February 1, 2016. Therefore, you and your spouse are not eligible for retroactive Medicaid for the month of January 2016 based on it being more than three months prior to your application. However, we are able to review you and your spouse's eligibility for retroactive Medicaid coverage for the months of February, March and April 2016.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

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To be eligible for Medicaid during the months of in February, March, and April 2016, you and your spouse would have needed to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$2,318.00 per month. There is no indication in the record that your spouse would have been ineligible for Medicaid based on any non-financial criteria during the months of February, March and April 2016.

At the request of the Hearing Officer, you provided letters issued by your spouse's former employer, [REDACTED], reflecting that your spouse received \$5,395.00 during February 2016, \$2,092.80 during March 2016, and \$915.60 during April 2016.

Since your household income during the month of February 2016 was more than the \$2,318.00 monthly Medicaid limit, NYSOH properly determined that your spouse was not eligible for Medicaid coverage during that month. However, the record also reflects that since your household income during the months of March and April 2016 was \$2,092.80 and \$915.00, respectively, which is below the \$2,318.00 monthly Medicaid limit, you and your spouse might have been eligible for retroactive Medicaid coverage during the months of March and April 2016.

Therefore, the June 2, 2016 eligibility determination is AFFIRMED insofar as you and your spouse were not found eligible for Medicaid coverage between January 1, 2016 and February 29, 2016.

Since the record now contains an accurate representation of what your household income was for the months of March and April 2016, your case is RETURNED to NYSOH to consider your request for retroactive Medicaid coverage March and April 2016 based on a three-person household income of \$2,092.80 and \$915.00, respectively.

The second issue under review is whether you and your child were no longer eligible to be enrolled in a MMC plan, effective September 30, 2016.

The record reflects that you and your child were removed from your MMC plan, effective September 30, 2016, and placed back in Medicaid Fee-For-Service. This change occurred because the system showed that both you and your child were either enrolled in a third-party health insurance plan or Medicare and, as a result, could not continue in your MMC plan.

The record also reflects that, once you became aware that this issue existed, you provided to NYSOH a letter issued by Excellus Blue Cross Blue Shield (Excellus BCBS), dated July 25, 2016, stating that coverage for you and your child under this policy ended effective July 1, 2016. You credibly testified that neither you nor your child had any third-party health insurance after the July 1, 2016 end date of that plan. There is no evidence in the record to support that either you or



your child had third-party health insurance at any time relevant to the September 1, 2016 system activity and events that followed.

As such, since the credible evidence of record makes clear that neither you nor your child had third-party health insurance on September 1, 2016, you and your child having been redetermined eligible for and enrolled in Medicaid Fee-For-Service and disenrolled from his MMC plan, effective September 30, 2016, as stated in the September eligibility redetermination, enrollment, and disenrollment notices was in error. Therefore, all three September 2, 2016 notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to facilitate you and your child's reinstatement in the MMC plan beginning October 1, 2016 and continuing, to ensure there is no interruption in his MMC plan coverage, and to notify you accordingly once this has been completed.

## **Decision**

The June 2, 2016 eligibility determination is **AFFIRMED** insofar as you and your spouse were not found eligible for Medicaid coverage between January 1, 2016 and February 29, 2016.

The May 1, 2016 eligibility redetermination, enrollment, and disenrollment notices are **RESCINDED**.

Your case is **RETURNED** to NYSOH to (1) consider your request for retroactive coverage during March and April 2016 based on a three-person household income of \$2,092.80 and \$915.00, respectively, and (2) facilitate you and your child's reinstatement in the MMC plan beginning October 1, 2016 and continuing to ensure there is no interruption in his MMC plan coverage; and to notify you accordingly once this has been completed.

**Effective Date of this Decision:** January 4, 2017

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

You and your spouse are not eligible for Medicaid during the months of January and February 2016.

Your case is being sent back to NYSOH to determine the eligibility of you and your spouse for Medicaid during the months of March and April 2016. This is not a final determination of your eligibility. You will be receiving a new eligibility determination notice shortly.

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The effective date of you and your child's MMC plan remains July 1, 2016

Your case is being sent back to NYSOH to facilitate you and your child's reinstatement in your MMC plan beginning October 1, 2016 and continuing so there is no interruption in the MMC plan coverage. NYSOH will notify you once this has been completed.

### **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  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

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## **Summary**

The June 2, 2016 eligibility determination is AFFIRMED insofar as you and your spouse were not found eligible for Medicaid coverage between January 1, 2016 and February 29, 2016.

The May 1, 2016 eligibility redetermination, enrollment, and disenrollment notices are RESCINDED.

You and your spouse are not eligible for Medicaid during the months of January and February 2016.

Your case is being sent back to NYSOH to determine the eligibility of you and your spouse for Medicaid during the months of March and April 2016. This is not a final determination of your eligibility. You will be receiving a new eligibility determination notice shortly.

The effective date of you and your child's MMC plan remains July 1, 2016

Your case is being sent back to NYSOH to facilitate you and your child's reinstatement in your MMC plan beginning October 1, 2016 and continuing so there is no interruption in the MMC plan coverage. NYSOH will notify you once this has been completed.

## **Legal Authority**

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

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

