



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

## Notice of Decision

Decision Date: March 23, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010232

[REDACTED]

Dear [REDACTED]

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 14, 2015 eligibility determination notice and February 20, 2016 enrollment 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 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.

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

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NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010232



## Issues

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

Was your appeal of the NY State of Health's (NYSOH) December 14, 2015 eligibility determination notice and February 20, 2016 enrollment notice timely?

## Procedural History

On November 17, 2015, NYSOH received an update to your application for health insurance, in which you attested that your spouse was pregnant.

On November 18, 2015, NYSOH received your spouse's I-551 Permanent Residence card issued on October 8, 2015, and her I-776 Employment Authorization Card issued on July 3, 2015.

On November 23, 2015, NYSOH issued an eligibility determination notice stating that your spouse was conditionally eligible for Medicaid effective November 1, 2015. Your spouse's eligibility for Medicaid was conditional pending receipt of documentation to confirm her citizenship status before February 15, 2016.

On November 23, 2015, NYSOH redetermined your household's eligibility.

On November 24, 2015, NYSOH issued an eligibility determination notice stating that your spouse remained conditionally eligible for Medicaid effective November 1, 2015, pending receipt of documentation to confirm citizenship status before February 21, 2016.

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On December 4, 2015, NYSOH received three updates to your application for health insurance.

On December 5, 2016, NYSOH issued an eligibility determination notice based on the information contained in the last application update received on December 4, 2015. It stated that your spouse remained conditionally eligible for Medicaid effective December 1, 2015, pending receipt of documentation to confirm citizenship status before March 3, 2016.

Also on December 5, 2015, NYSOH issued an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan for your spouse as of December 4, 2015. The notice stated that your spouse's MMC plan coverage would begin effective January 1, 2016.

On December 7, 2015, NYSOH received a duplicate copy of your spouse's I-551 Permanent Residence card issued October 8, 2015.

For reasons that are not clear, on December 13, 2015, NYSOH redetermined your household's eligibility but failed to indicate that your spouse was pregnant at that time.

On December 14, 2015, NYSOH issued an eligibility determination notice stating that your spouse was eligible to enroll in the Essential Plan for a limited time, effective January 1, 2016. Your spouse's eligibility was conditional pending receipt of income documents before March 12, 2016.

Also on December 14, 2015, NYSOH issued an enrollment notice confirming that you spouse enrolled in an Essential Plan as of December 14, 2015, and that her Essential Plan coverage would begin effective January 1, 2016.

On December 17, 2015, NYSOH issued a cancellation notice confirming that your spouse MMC plan coverage would end effective January 1, 2016.

On February 19, 2016, NYSOH received an update to your application, the first of which included your newborn child.

On February 20, 2016, NYSOH issued an eligibility determination notice based on the information contained in the February 19, 2016 application. The notice stated that your spouse was eligible to enroll in the Essential Plan, effective March 1, 2016. The notice also stated that your newborn child was eligible for Medicaid effective February 1, 2016.

Also on February 20, 2016, NYSOH issued an enrollment notice confirming that your spouse was enrolled in an Essential Plan 3, with coverage beginning January 1, 2016. The notice also confirmed your selection of an MMC plan for

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your child as of February 19, 2016, and that his MMC plan coverage would begin effective April 1, 2016.

On or about May 31, 2016, you first contacted NYSOH to request that your child be placed in an MMC as of the date of his birth, rather than April 1, 2016.

On June 2, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid effective January 1, 2016, after your original application was reconsidered by an eligibility specialist at NYSOH.

On June 3, 2016, NYSOH issued an eligibility determination notice stating that your spouse was eligible to enroll in an Essential Plan for a limited time, effective July 1, 2016. Your spouse's eligibility was conditional pending receipt of income documentation before June 22, 2016. The notice also stated that your child remained eligible for Medicaid.

On June 4, 2016, NYSOH issued a disenrollment notice confirming that your spouse's Medicaid Fee-For-Service coverage had been terminated effective June 30, 2016.

Also on June 4, 2016, NYSOH issued a separate disenrollment notice confirming that your spouse's coverage under her Essential Plan had been terminated effective June 30, 2016.

Finally, on June 4, 2016, NYSOH issued an enrollment notice stating that your enrollment in the Essential Plan 3 would begin effective July 1, 2016, and that your child's MMC plan coverage would begin effective April 1, 2016.

On June 13, 2016, NYSOH you contacted NYSOH's Account Review Unit and requested an appeal of (1) your spouse's eligibility for the Essential Plan rather than Medicaid as of the December 13, 2015 redetermination and (2) your newborn child's MMC plan start date of April 1, 2016, insofar as you were seeking an MMC start date of February 1, 2016.

On December 21, 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) The record reflects that you updated your NYSOH application on November 17, 2015. Thereafter, your spouse was found conditionally

eligibility for Medicaid effective November 1, 2015, pending receipt of documentation to confirming her citizenship status.

- 2) The November 17, 2015 application indicated that your spouse was pregnant at that time.
- 3) On November 18, 2015, NYSOH received copies of your spouse's I-551 Permanent Residence card issued on October 8, 2015 and her I-776 Employment Authorization Card issued on July 3, 2015.
- 4) Your spouse was initially enrolled in an MMC plan on December 4, 2015, with such coverage beginning January 1, 2016.
- 5) On December 13, 2015, NYSOH redetermined your eligibility, without presuming that your spouse was pregnant, which resulted in an eligibility determination that your spouse was eligible for the Essential Plan for a limited time, pending receipt of documentation to confirm her household income.
- 6) Your spouse's MMC plan and Medicaid coverage was terminated effective January 1, 2016.
- 7) Your spouse was subsequently enrolled in an Essential Plan 3 with coverage beginning on January 1, 2016.
- 8) Your child was born on [REDACTED]
- 9) Based on your revised application submitted on February 19, 2016, your child was found eligible for Medicaid, effective February 1, 2016.
- 10) Your child was enrolled in an MMC plan with coverage beginning April 1, 2016.
- 11) You first contacted NYSOH on May 31, 2016 to dispute the eligibility of your spouse and your child and a formal appeal was filed the same day. Your request for a formal appeal was filed on June 13, 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 NYSOH to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505, 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 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)).

## **Legal Analysis**

The issue under review is whether your appeal of NYSOH's December 14, 2015 eligibility determination notice and February 20, 2016 enrollment notice was timely.

As a result of an update to your application on November 17, 2015, your spouse was found conditionally eligible for Medicaid, pending receipt of documentation to confirm your citizenship status. This application reflected that your spouse was pregnant. Your spouse thereafter enrolled in an MMC plan with coverage to begin effective January 1, 2016.

The record reflects that on December 13, 2015, NYSOH redetermined your household's eligibility, but apparently failed to reflect that your spouse was pregnant. On December 14, 2016, NYSOH issued an eligibility determination notice stating that your spouse was no longer eligible for Medicaid, but rather eligible for the Essential Plan for a limited time beginning January 1, 2016, pending the receipt of income documentation to confirm her eligibility. Accordingly, your spouse's MMC plan coverage was cancelled effective January 1, 2016.

The record further reflects that NYSOH received a revised application on February 19, 2016, which was the first instance your newborn child was included in your account. As a result of this application, your child was found eligible for Medicaid effective February 1, 2016. Thereafter, NYSOH issued an enrollment notice on February 20, 2016 confirming that he had been enrolled in an MMC plan, with such coverage to begin effective April 1, 2016.

You testified that as a result of NYSOH's omission that your spouse was not pregnant, as reflected in the December 13, 2015 redetermination, your spouse's hospital expenses resulting from the birth of your child in February 2016 were not covered by Medicaid, and you have outstanding medical bills from this time. However, the credible evidence of record reflects that you did not contact NYSOH to dispute your spouse's and child's eligibility until May 31, 2016 at the earliest.

Individual applicants and enrollees must request a hearing within 60 days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your spouse's eligibility for Medicaid, as indicated in the December 14, 2015 eligibility determination notice, an appeal should have been filed by February 12, 2016. Similarly, for an appeal to have been valid on the issue of your child's enrollment in an MMC plan beginning April 1, 2016, as indicated in the February 20, 2016 enrollment notice, an appeal should have been filed by April 20, 2016. According to the credible evidence in the record, you did not contact NYSOH until May 31, 2016 to lodge a complaint, and again on June 13, 2016 to file a formal appeal which, in each case, is beyond 60 days from the December 14, 2015 eligibility determination notice and February 20, 2016 enrollment notice at issue.

Therefore, there has been no timely appeal of the December 14, 2015 eligibility determination notice or the February 20, 2016 enrollment notice, and your appeal is DISMISSED.

## **Decision**

Your appeal of the December 14, 2015 eligibility determination notice and February 20, 2016 enrollment notice is untimely, and is DISMISSED.

**Effective Date of this Decision:** March 23, 2017

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

The eligibility of your spouse and your child are unchanged.

Your spouse remains enrolled in the Essential Plan effective January 1, 2016.

Your child's Medicaid Fee-For-Service coverage began effective February 1, 2016.

Your child's MMC plan coverage began effective April 1, 2016.

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## **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

## **Summary**

Your appeal of the December 14, 2015 eligibility determination notice and February 20, 2016 enrollment notice is untimely, and is **DISMISSED**.

The eligibility of your spouse and your child are unchanged.

Your spouse remains enrolled in the Essential Plan effective January 1, 2016.

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Your child's Medicaid Fee-For-Service coverage began effective February 1, 2016.

Your child's MMC plan coverage began effective April 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:**

