



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

## Notice of Decision

Decision Date: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010930

[REDACTED]

Dear [REDACTED],

On January 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 2, 2016 eligibility determination 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: February 9, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000010930

[REDACTED]

## Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your son was terminated from Medicaid effective July 31, 2016 for failure to provide documentation of citizenship status?

## Procedural History

On March 28, 2016, NYSOH received two updates to your application for health insurance.

Also on March 28, 2016, NYSOH received (1) a certified transcript of birth data (Form DOH 4121 (9/98)), issued by NYS Dept. of Health on April 12, 2005, reflecting that your child had been born in [REDACTED] on [REDACTED] and (2) a certificate of adoption, issued by Clerk of the Family Court of the County of Ulster on April 5, 2005, confirming that your child had been officially adopted by you and your spouse on [REDACTED]

On March 29, 2016, NYSOH issued a notice of eligibility determination notice based on the information contained in the final update received to your March 28, 2016 application. The notice stated that your son remained conditionally eligible for Medicaid. The notice requested that you provide documentation confirming your child's citizenship status before June 26, 2016. This eligibility determination was effective April 1, 2016.

Also on March 29, 2016, NYSOH issued a notice confirming your enrollment in a Medicaid Managed Care (MMC) plan, with such coverage beginning effective May 1, 2016.

On March 31, 2016, NYSOH received an I-797 Notice of Action, issued by Dept. of Homeland Security (USCIS) on July 9, 2004, reflecting that your child had been granted permanent resident status.

On July 1, 2016, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus, or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a qualified health plan at full cost because you had not confirmed his citizenship status within the required timeframe. His eligibility for coverage ended effective July 31, 2016.

On July 19, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as it ended your child's Medicaid eligibility on July 31, 2016.

On January 5, 2017, 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) Your child was found conditionally eligible for Medicaid, effective April 1, 2016. His eligibility was conditional pending receipt of documentation to confirm his citizenship status before June 26, 2016.
- 2) The record reflects that on March 28, 2016, you provided to NYSOH: (1) a certified transcript of birth data (Form DOH 4121 (9/98)), issued by NYS Dept. of Health on April 12, 2005, reflecting that your child had been born in [REDACTED] on [REDACTED] and (2) a certificate of adoption, issued by Clerk of the Family Court of the County of Ulster on [REDACTED], confirming that your child had been officially adopted by you and your spouse on [REDACTED].
- 3) The record also reflects that on March 31, 2016, you provide to NYSOH an I-797 Notice of Action, issued by Dept. of Homeland Security (USCIS) on July 9, 2004, reflecting that your child had been granted permanent resident status.

- 4) NYSOH disenrolled your child from Medicaid effective July 31, 2016 for failure to provide satisfactory proof of his citizenship status.
- 5) You testified that you have not been issued a certificate of U.S. citizenship or certificate of naturalization for your child.
- 6) You testified that you were told by your immigration counsel that since your child had been legally adopted by you and your spouse, both U.S. Citizens, your child automatically became a U.S. Citizen, without the benefit of any additional documentation or applications to USCIS.
- 7) You testified that you are seeking reinstatement of your child's Medicaid coverage as of August 1, 2016 under his MMC plan.

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

## **Applicable Law and Regulations**

### Medicaid

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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 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 \$20,090.00 for a three-person household (81 Federal Register 4036).

People who receive or are eligible for Medicaid are not eligible for APTC since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan for 12 months, with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid Social Security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

One of the non-financial criteria for Medicaid eligibility is the immigration status of the person applying for health insurance. Generally, no person except a United States citizen, naturalized citizen, qualified alien, or person permanently residing

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in the United States under color of law (PRUCOL) is eligible for full Medicaid benefits (NY Social Services Law § 122(1); 18 NYCRR § 360-3.2).

### Citizenship and Immigration Status

To enroll through NYSOH, an applicant must be a citizen or national of the United States, or a non-citizen lawfully present in the United States and reasonably expecting to become a citizen or remain a lawfully present noncitizen for the entire period for which enrollment is being sought (45 CFR § 155.305(a)(1)).

NYSOH must verify or obtain information in order to determine that an applicant is eligible to enroll, including the certification of citizenship, status as a national, or lawful presence (45 CFR § 155.315(a), (c)).

A child born outside of the United States, including an adopted child, automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

- (1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization;
- (2) The child is under the age of eighteen years; and
- (3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(8 USC § 1431(a), (b))

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your child was no longer eligible for Medicaid effective July 31, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage through NYSOH, and must confirm, among other things, that their citizenship status is satisfactory.

If NYSOH cannot verify an individual's citizenship status, it must provide the individual with notice of the inconsistency. NYSOH must then provide the individual with a period of 90 days from the date notice is received to resolve the inconsistency. For purposes of verifying citizenship, notice is considered received 5 days after the date on the notice.

In the eligibility determination issued on March 29, 2016, you were advised that your child's Medicaid eligibility was only conditional, and that you needed to confirm his citizenship status before June 26, 2016.

The record reflects that on March 28, 2016 you provided to NYSOH (1) a certified transcript of birth data (Form DOH 4121 (9/98)), issued by NYS Dept. of Health on April 12, 2005, reflecting that your child had been born in [REDACTED] on [REDACTED] [REDACTED] (2) a certificate of adoption, issued by Clerk of the Family Court of the County of Ulster on [REDACTED] confirming that your child had been officially adopted by you and your spouse on [REDACTED]

The record also reflects that on March 31, 2016, you provided to NYSOH an I-797 Notice of Action, issued by Dept. of Homeland Security (USCIS) on July 9, 2004, reflecting that your child had been granted lawful permanent resident status.

Pursuant to 8 USC § 1431(a), children under 18 years old who have been granted lawful permanent residence by USCIS, and have been adopted by a least one parent with U.S. citizenship automatically become a US citizen, without the issuing of any additional certifications, including a certificate of US Citizenship (N-560, N-561).

While the documentation you provided to NYSOH on March 28, 2016 and March 31, 2016 was not included within the documentation list contained in to prove your child's citizenship status, the documents you provided were nonetheless sufficient to confirm your child as a US Citizen.

Therefore, NYSOH's July 2, 2016 eligibility determination notice stating that your child was no longer eligible for coverage through NYSOH since you did not provide documentation to confirm your child's citizenship status was in error and is RESCINDED.

Furthermore, the July 2, 2016 disenrollment notice stating that your child's Medicaid coverage had been terminated as of July 31, 2016 is also RESCINDED.

Your case is RETURNED to NYSOH to reinstate your child's MMC plan coverage as of August 1, 2016.

## **Decision**

The July 2, 2016 eligibility determination notice is RESCINDED.

The July 2, 2016 disenrollment notice is RESCINDED.

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Your case is RETURNED to NYSOH to reinstate your child's MMC plan coverage as of August 1, 2016.

**Effective Date of this Decision:** February 9, 2017

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

Your child's MMC plan coverage is reinstated as of August 1, 2016, and will continue until at least February 28, 2017 due to the continuous coverage guidelines.

### **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 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**

The July 2, 2016 eligibility determination notice is **RESCINDED**.

The July 2, 2016 disenrollment notice is **RESCINDED**.

Your case is **RETURNED** to NYSOH to reinstate your child's MMC plan coverage as of August 1, 2016.

Your child's MMC plan coverage is reinstated as of August 1, 2016, and will continue until at least February 28, 2017 due to the continuous coverage guidelines.

## **Legal Authority**

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

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

