



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

Notice of Decision

Decision Date: January 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011777

[REDACTED]

On December 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 28, 2016 disenrollment notice and August 11, 2016 eligibility determination 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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NY State of Health Account ID: [REDACTED]
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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 should be disenrolled from your Medicaid Managed Care (MMC) plan, effective July 31, 2016?

Did NYSOH properly determine that you and your spouse were eligible to receive up to \$205.00 per month in advance payments of the premium tax credit (APTC), effective September 1, 2016, and not eligible for Medicaid?

Procedural History

On December 24, 2015, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid because your household income of \$32,196.62 was at or below the allowable income limit. This eligibility was effective as of January 1, 2016.

On March 30, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment and your spouse's enrollment in an MVP MMC plan, effective May 1, 2016.

On June 26, 2016, NYSOH redetermined your and your spouse's eligibility for financial assistance.

On June 28, 2016, NYSOH issued a notice stating that your December 16, 2015 application had been reviewed, and that more information was needed to make a

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determination as to your eligibility. The notice stated that you needed to provide documentation of income for yourself and your spouse by July 11, 2016.

Also on June 28, 2016, NYSOH issued a disenrollment notice stating that your coverage and your spouse's coverage in your MMC plan was ending effective July 31, 2016.

On August 5, 2016, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost because you did not submit the requested income documentation. The notice also stated that you and your spouse were qualified to select a health plan outside of the 2016 open enrollment period.

On August 10, 2016, your NYSOH account was updated.

On August 11, 2016, NYSOH issued a notice stating that you and your spouse were eligible to receive up to \$205.00 per month in APTC, effective September 1, 2016. The notice also stated that you and your spouse qualified to select a health plan outside of the 2016 open enrollment period.

On August 30, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the June 28, 2016 disenrollment notice and August 11, 2016 eligibility determination, insofar as you and your spouse were no longer enrolled in or eligible for Medicaid. You also requested to have your Medicaid and MMC coverage reinstated, pending the outcome of the appeal (Aid to Continue).

On September 2, 2016, NYSOH issued a notice stating that you and your spouse were eligible for Medicaid for a limited time, effective August 1, 2016, because your request for Aid to Continue had been granted. You and your spouse were also re-enrolled into your MMC plan, effective October 1, 2016, as a result of your Aid to Continue request.

On December 14, 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) Your NYSOH account reflects that you and your spouse were found eligible for Medicaid effective January 1, 2016, and that eligibility determination is not under review.

- 2) A note made in Complaint [REDACTED] by a NYSOH employee on August 30, 2016 states:

“Following a systematic eligibility run, on 06/26/2016, the appellant, Philip W., and his spouse were disenrolled [sic] from their MA MMC coverage effective 07/31/2016. This was because the system detected TPHI [third party health insurance]. On 08/08/2016, the appellant contacted the Marketplace, updated his application and was determined pending Medicaid eligible. On 08/10/2016, the appellant contacted the Marketplace, updated his application and was determined eligible for APTC.”
- 3) You testified that you and your spouse did not have any other health insurance outside of NYSOH at any point during 2016.
- 4) You testified that you do not recall anyone from NYSOH asking you if you or your spouse had other health insurance coverage in 2016.
- 5) The record does not contain any notices stating that you and your spouse were terminated from your MMC coverage because you had other health insurance coverage,
- 6) There is no indication that NYSOH requested information from you – verbally or in writing – as to whether you had other health insurance coverage in 2016.
- 7) You testified that you have been living at the same address since you updated your application in December 2015.
- 8) You further testified that the household income NYSOH used in determining that you and your spouse were eligible for APTC as of September 1, 2016 was incorrect.
- 9) You testified that you are looking to be reinstated in your Medicaid and MMC coverage.

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 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

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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, which is \$24,250.00 for a four-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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that you and your spouse were disenrolled from your MMC plan, effective July 31, 2016.

You and your spouse were found eligible for Medicaid effective January 1, 2016. That eligibility determination is not under review.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months with limited exceptions. One of those exceptions is when an individual has third party health insurance.

Information in the record indicates that NYSOH's system redetermined your eligibility on June 26, 2016, and that the system allegedly detected that you and your spouse had other health insurance coverage. As a result, you and your spouse were terminated from your MMC plan as of July 31, 2016.

During the hearing, you testified that you and your spouse have not had any other health insurance coverage during 2016. Moreover, the record is void of any evidence supporting NYSOH's conclusion that you and your spouse had third party health insurance.

As such, NYSOH improperly disenrolled you and your spouse from your MMC plan as of July 31, 2016. Your MMC coverage should have continued for a twelve month period, until December 31, 2016.

Therefore, the June 28, 2016 disenrollment notice is **RESCINDED**. Your case is **RETURNED** to NYSOH to re-enroll you and your spouse into your MMC plan as of August 1, 2016.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible to receive up to \$205.00 per month in APTC, effective September 1, 2016, and not eligible for Medicaid.

As stated above, most adults receive 12 months of Medicaid coverage after being found eligible, with limited exceptions. 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. Therefore, even though NYSOH made a determination that your household income had increased as of the August 10, 2016 eligibility run, you and your spouse should have remained eligible for Medicaid until December 31, 2016.

Therefore, the August 11, 2016 eligibility determination notice is **MODIFIED** to state that you and your spouse remain eligible for Medicaid until December 31, 2016.

Since you indicated in your testimony that NYSOH calculated your income incorrectly, your case is **RETURNED** to NYSOH, and NYSOH is directed to reach out to you to update your application for 2017. NYSOH is further directed to make a determination in writing as to your and your spouse's eligibility for financial assistance in 2017.

Your Aid to Continue will remain in place until your eligibility for financial assistance for 2017 is determined.

Decision

The June 28, 2016 disenrollment notice is RESCINDED.

The August 11, 2016 eligibility determination notice is MODIFIED to state that you and your spouse remain eligible for Medicaid for a 12-month period, ending on December 31, 2016.

Your case is RETURNED to NYSOH to reinstate you and your spouse in your MMC plan, effective August 1, 2016.

Your case is RETURNED to NYSOH to conduct outreach to you and your spouse so that your application for financial assistance for 2017 can be updated.

Effective Date of this Decision: January 5, 2017

How this Decision Affects Your Eligibility

Your and your spouse's Medicaid coverage, which began on January 1, 2016, should have continued until December 31, 2016.

You and your spouse will be re-enrolled in your MMC plan as of August 1, 2016.

NYSOH will contact you to update your application for financial assistance for you and your spouse for 2017 and will issue a determination in writing as to your eligibility.

Your Aid to Continue will remain in place until NYSOH determines your eligibility for financial assistance for 2017.

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

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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 June 28, 2016 disenrollment notice is **RESCINDED**.

The August 11, 2016 eligibility determination notice is **MODIFIED** to state that you and your spouse remain eligible for Medicaid for a 12-month period, ending on December 31, 2016.

Your case is **RETURNED** to NYSOH to reinstate you and your spouse in your MMC plan, effective August 1, 2016.

Your case is **RETURNED** to NYSOH to conduct outreach to you and your spouse so that your application for financial assistance for 2017 can be updated.

Your and your spouse's Medicaid coverage, which began on January 1, 2016, should have continued until December 31, 2016.

You and your spouse will be re-enrolled in your MMC plan as of August 1, 2016.

NYSOH will contact you to update your application for financial assistance for you and your spouse for 2017 and will issue a determination in writing as to your eligibility.

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Your Aid to Continue will remain in place until NYSOH determines your eligibility for financial assistance for 2017.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

