



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

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011786

[REDACTED]

Dear [REDACTED],

On January 12, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's alleged failure to issue an eligibility determination on your August 2, 2016 application.

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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Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011786



Issue

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

Did NY State of Health fail to provide a timely determination of your Medicaid eligibility as of your August 2, 2016 application?

Procedural History

On April 6, 2016, NYSOH issued a notice of eligibility determination stating that you were conditionally eligible for Medicaid, effective April 1, 2016. The notice further directed you to provide documentation of your [REDACTED] citizenship status before July 4, 2016, or you might lose your eligibility for health insurance.

Also on April 6, 2016, NYSOH issued a notice of enrollment confirmation confirming your enrollment in a Medicaid Managed Care (MMC) plan, effective May 1, 2016.

On June 27, 2016, a document regarding your citizenship status was uploaded to your NYSOH account.

On July 6, 2016, NYSOH updated your account.

On July 7, 2016, NYSOH issued a notice of eligibility determination stating that your son was no longer eligible for Medicaid, without further explanation, but that his coverage would continue until March 31, 2017. The notice did not address your eligibility for coverage. The notice directed you to submit income documentation for yourself and your son by July 21, 2016.

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Also on July 7, 2016, NYSOH issued a disenrollment notice stating that your [REDACTED] enrollment in your MMC plan would end effective July 31, 2016 because you were no longer eligible to remain enrolled in your current health insurance.

That same day, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in Medicaid, and that you needed to pick a health plan.

On July 21, 2016, documentation you faxed to NYSOH was uploaded to your NYSOH account.

On July 29, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice stated that you needed to provide proof of income by August 5, 2016.

On August 2, 2016, your NYSOH account was updated.

On August 3, 2016, NYSOH issued a notice stating that your August 2, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your eligibility for financial assistance. The notice directed you to submit documentation of your income by August 20, 2016.

Also on August 3, 2016, NYSOH issued a disenrollment notice stating that your Medicaid fee-for-service coverage would end on August 31, 2016.

On August 17, 2016 and August 18, 2016 documentation that you faxed to NYSOH was uploaded to your NYSOH account.

On August 24, 2016, NYSOH issued a notice stating that the documentation you submitted did not confirm the information in your application. The notice stated that you needed to provide proof of income by September 19, 2016.

On August 31, 2016, you updated your NYSOH account. That day, NYSOH prepared a preliminary eligibility determination stating that the information you provided did not match what NYSOH obtained from state and federal data sources, and that an eligibility determination could not be made until you provided additional documentation.

Also on August 31, 2016, you contacted the NYSOH Account Review Unit and requested an appeal of the fact that NYSOH had not issued an eligibility determination on your pending application. You also requested Aid to Continue, pending the outcome of your appeal.

On September 1, 2016, NYSOH issued a notice stating that your August 31, 2016 application had been reviewed, but that more information was needed in order to make a determination as to your eligibility for financial assistance. The

notice directed you to submit documentation of your income by September 19, 2016.

On September 2, 2016, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid for a limited time because you had been granted Aid to Continue until a decision is made on your appeal. This eligibility was effective August 1, 2016.

Also on September 2, 2016, NYSOH issued a notice of enrollment confirmation, confirming your enrollment in your MMC plan, beginning as of October 1, 2016, pursuant to your Aid to Continue.

On January 12, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and kept open at the end of the hearing until February 2, 2017 to provide you with time to submit documentation of Unemployment Insurance Benefits (UIB) that you received, as well as documentation of your income in July, August, and September 2016. On January 17, 2017, you sent an eight-page fax and a thirteen-page fax to the Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) You testified that you are appealing the fact that NYSOH did not make a determination as to your eligibility after you submitted documentation in July 2016 and updated your application in August 2016.
- 2) According to your NYSOH account, you were found eligible for Medicaid as of April 1, 2016. No income documentation was requested from you at that time.
- 3) On July 6, 2016, NYSOH made updates to your account, including changing your status from a US citizen to an Immigrant Non-Citizen, based on the Legal Permanent Resident card that you submitted. NYSOH reran your eligibility that day.
- 4) As a result of re-running your eligibility on July 6, 2016, NYSOH issued an eligibility determination on July 7, 2016 that requested documentation of your income by July 21, 2016. However, the notice did not include any determination with regard to your eligibility.
- 5) On July 20, 2016, you sent a four-page fax to NYSOH that was uploaded to your NYSOH account on July 21, 2016. This fax consisted of the following:

- a. A bar-coded cover sheet;
- b. A letter, dated July 20, 2016 and signed by you, stating that you were told to send your last 3 paystubs and a letter from your employer. The letter stated that your store manager was on vacation and could not write a letter, and that you started working at [REDACTED] on June 26, 2016 and had only received two paychecks. You also stated that you were making \$9.00 an hour, and that your hours varied, as you were working part-time. Finally, the letter stated that you had earned \$413.50, gross, so far from your job;
- c. A July 5, 2016 paystub for gross pay of \$263.25;
- d. A July 12, 2016 paystub for gross pay of \$414.00

(Documents [REDACTED] and [REDACTED])

- 6) You testified that you faxed these documents to NYSOH because you got a letter from NYSOH stating that you needed to provide income documentation, and that this was the only income documentation you had available at the time, as you had just started working at [REDACTED] as of June 26, 2016.
- 7) You testified that you were previously working a job that ended in March 2016, and that, after that, you applied for UIB.
- 8) You testified that you received approximately five UIB payments between mid-April and mid-May. You testified that it was then determined that you were not eligible for UIB, and you are currently repaying the benefits you received.
- 9) On July 29, 2016, NYSOH issued a notice to you stating that the income documentation you provided was not sufficient, and that you needed to provide documentation of your income by August 5, 2016. The notice did not specifically state how the documentation you had submitted was insufficient.
- 10) Your NYSOH account reflects that you updated your application again on August 2, 2016. You testified that you called NYSOH on that day to find out if they had received the documentation that you had faxed, and that the person you spoke with made you redo your application at that time.
- 11) On August 3, 2016, NYSOH issued a notice stating that your son remained eligible for Medicaid, and another notice stating that you might be eligible for Medicaid, but that you needed to submit income documentation by August 20, 2016. That same day, NYSOH also sent you a notice letting you know that your Fee-for-Service Medicaid was ending on August 31, 2016.

- 12) On August 16, 2016, you faxed two sets of documents to NYSOH.
- 13) The first set of documents was uploaded by NYSOH to your account on August 17, 2016, and consisted of the following:
- a. A one-page bar code cover sheet;
 - b. A three-page notice from the NYS Department of Labor dated May 26, 2016 and addressed to you, entitled "Notice of Determination of Ineligibility or Disqualification." The document stated that you were not eligible for UIB beginning 3/24/16 because you quit your job without good cause, and that, as a result of an Administrative Law Judge decision, benefits paid to you after 4/3/16 constituted an overpayment. Lastly, the notice stated that, between overpaid benefits and monetary penalties, you owed the NYS Department of Labor [REDACTED]

(Document [REDACTED])

- 14) The second set of documents was uploaded by NYSOH to your account on August 18, 2016, and consisted of the following:
- a. A one-page bar code cover sheet;
 - b. Four paystubs from [REDACTED] for the following dates and gross amounts:
 - i. July 5, 2016 - \$263.25
 - ii. July 12, 2016 - \$150.75
 - iii. August 2, 2016 - \$305.25
 - iv. August 9, 2016 - \$226.62

(Document [REDACTED])

- 15) You testified that you are not sure why there is a gap in the paystubs you provided, but that you believe you took the week of July 13, 2016 off, which may have accounted for the gap.
- 16) You testified that you supplied as much documentation as you could when you first provided your income information in July 2016.
- 17) You testified that you recall that you were told to supply four paystubs, but not necessarily consecutive paystubs.
- 18) Your NYSOH account reflects that the notices you were sent on July 29, 2016 and August 24, 2016 stating that the documentation you had provided was not sufficient did not state specifically how the documentation was insufficient.

19) You testified that you are looking for Medicaid coverage, as you are looking to be found eligible for Medicaid, and to be enrolled in the MMC plan you are currently in, as you are pregnant and expecting a baby in [REDACTED] 2017.

20) On January 19, 2017, you updated your NYSOH account and were found eligible for Medicaid, effective January 1, 2017. This eligibility is not conditional.

21) After the hearing, you sent two faxes to the NYSOH Appeals Unit.

22) The first fax consisted of thirteen pages as follows:

- a. A one-page fax cover sheet entitled "Final Documentation;"
- b. Ten paystubs from [REDACTED] for the following pay dates and gross amounts:
 - i. July 5, 2016 - \$263.25;
 - ii. July 12, 2016 - \$150.75;
 - iii. July 26, 2016 - \$180.38;
 - iv. August 2, 2016 - \$305.25;
 - v. August 9, 2016 - \$226.62;
 - vi. August 16, 2016 - \$231.25;
 - vii. August 23, 2016 - \$238.20;
 - viii. August 30, 2016 - \$154.94;
 - ix. September 6, 2016 - \$148.00;
 - x. September 13, 2016 - \$69.38;
- c. A 2016 W-2 from [REDACTED] showing total wages for 2016 of \$5,508.44;
- d. Your final 2016 paystub for [REDACTED], dated December 27, 2016, for gross earnings of \$248.62. The stub also shows gross year-to-date earnings of \$4,645.40

These documents are collectively marked and entered into the record as "Appellant's Exhibit One."

23) The second fax consisted of eight pages as follows:

- a. A one-page document addressed to the Appeals Unit describing payments you've made to the NYS Department of Labor toward your overpayment;
- b. Two UIB Debt Receipts of Payment for payments of \$60.00 each, on July 12, 2016 and December 7, 2016;
- c. Five [REDACTED] check images for checks made out by you to the Unemployment Insurance Division on June 6, 2016, September 2, 2016, October 5, 2016, November 3, 2016, and December 1, 2016.

These documents are collectively marked and entered into the record as “Appellant’s Exhibit Two.”

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

Applicable Law and Regulations

Medicaid

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 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)).

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), 42 CFR § 435.945).

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) 42 CFR § 435.952).

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

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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).

Legal Analysis

The issue under review is whether NYSOH's provided you with timely determination of your Medicaid eligibility as of August 2, 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 were found conditionally eligible for Medicaid as of April 1, 2016, pending proof of your citizenship. You and your son were also enrolled into an MMC plan as of May 1, 2016. At that time, you were not asked for income documentation. According to the record, you mailed a copy of your Legal Permanent Resident card to NYSOH, and it was received by NYSOH on June 27, 2016, and uploaded to your NYSOH account on June 29, 2016.

The record reflects that on July 6, 2016, something caused NYSOH's system to re-determine your eligibility. As a result, NYSOH sent you a notice on July 7, 2016 stating that your son was no longer eligible for Medicaid, but that his coverage would continue until March 31, 2017. The notice further requested that you provide documentation of your income by July 21, 2016. In what appears to be an error, the notice contains no mention of your eligibility for Medicaid. Nevertheless, NYSOH issued a notice that same day disenrolling you from your MMC plan, effective July 31, 2016, while simultaneously issuing a notice that confirmed your son's enrollment in his MMC plan, effective May 1, 2016 and requested that you select an MMC plan. Lastly, NYSOH issued a notice on August 3, 2016 that disenrolled you from your Fee-For-Service Medicaid coverage as of August 31, 2016.

Subsequently, over the months of July and August 2016, you made attempts to provide NYSOH with income documentation. NYSOH rejected your documentation as insufficient in notices dated July 29 and August 24, 2016. However, these notices are lacking in specificity, and failed to inform you not only of the reason the documents you supplied were rejected, but also of the specific documentation necessary to correct the alleged insufficiency.

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On July 20, 2016, you faxed NYSOH two paystubs from your new job at [REDACTED], and an explanatory letter stating that you had only just started the job, and only had the two paystubs. NYSOH issued a notice on July 29, 2016 rejecting this documentation, but failing to state both how it was inadequate and how you could remedy its alleged inadequacy.

Based on the information in the record, it is determined that your application should have been treated as complete as of July 20, 2016, when you faxed all the information regarding your income that you had available.

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.

NYSOH did not issue an eligibility determination after you supplied documentation on July 20, 2016. An eligibility determination should have been issued, based on the information you provided, by September 3, 2016, which was 45 days from the date your application was complete.

However, in this case, NYSOH's failure to make a determination as to your eligibility for Medicaid was moot, because NYSOH's July 7, 2016 notice, which was the first notice to request income documentation, erroneously omitted any discussion of your eligibility. Without an eligibility determination stating that you were no longer eligible for Medicaid and why, NYSOH should not have discontinued your enrollment in your MMC plan as of July 31, 2016, and should not have discontinued your enrollment in your Fee-For-Service Medicaid as of August 31, 2016.

As such, NYSOH's July 7, 2016 and August 3, 2016 disenrollment notices are **RESCINDED**. You should have remained enrolled in your Medicaid and MMC plan coverage.

Since you were re-enrolled into your Medicaid and MMC plan coverage pursuant to Aid-to-Continue as of August 1, 2016, there is no gap in your coverage.

Decision

The July 7, 2016 disenrollment notice is **RESCINDED**.

The August 3, 2016 disenrollment notice is **RESCINDED**.

Your Medicaid and MMC plan enrollment should have continued until the time of your application update on January 19, 2017.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

You should have remained enrolled in your Medicaid and MMC plan coverage through your January 19, 2017 application update.

This decision has no effect on your current eligibility for coverage.

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:

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NY State of Health Appeals
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- By fax: 1-855-900-5557

Summary

The July 7, 2016 disenrollment notice is RESCINDED.

The August 3, 2016 disenrollment notice is RESCINDED.

Your Medicaid and MMC plan enrollment should have continued until the time of your application update on January 19, 2017.

You should have remained enrolled in your Medicaid and MMC plan coverage through your January 19, 2017 application update.

This decision has no effect on your current eligibility for coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

