



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

Notice of Decision

Decision Date: January 6, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011960

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On December 14, 2016, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's June 16, 2016 disenrollment and eligibility determination 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 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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Issues

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

Did NYSOH properly determine that your spouse should be disenrolled from her Medicaid Managed Care (MMC) plan, effective June 30, 2016?

Did NYSOH properly determine that your spouse was eligible to receive \$0.00 in advance payments of the premium tax credit (APTC), effective July 1, 2016?

Procedural History

On August 11, 2015, NYSOH issued a notice of eligibility determination stating that your spouse was conditionally eligible for Medicaid because your household income of \$12,000.00 was at or below the allowable income limit. This eligibility was effective as of September 1, 2015. The notice further stated that your spouse needed to submit documentation of her citizenship status by November 8, 2015, or she might lose eligibility for health insurance or for financial assistance.

Also on August 11, 2015, NYSOH issued an enrollment confirmation notice confirming your spouse's enrollment in a MMC plan, effective September 1, 2015.

On June 15, 2016, NYSOH received your updated application for health insurance.

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On June 16, 2016, NYSOH issued a notice of eligibility determination stating that you and your son were no longer eligible for Medicaid. However, your Medicaid coverage would continue until July 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. The notice also stated that your spouse was conditionally eligible to receive APTC of \$0.00 per month, and that she qualified to select a health plan outside of the 2016 open enrollment period. Your spouse's eligibility was effective as of July 1, 2016.

Also on June 16, 2016, NYSOH issued a disenrollment notice stating that your spouse's enrollment in her MMC plan would end as of June 30, 2016 because she was no longer eligible to remain in her current health insurance.

On September 12, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the June 16, 2016 disenrollment notice and eligibility determination notice.

On December 14, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, both you and your spouse were present and sworn in. 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) You testified that you are looking for insurance coverage for your spouse for the month of July 2016.
- 2) You testified that you first applied for health insurance through NYSOH sometime in 2014.
- 3) You testified that, when you first applied, your spouse was a Permanent Resident, and not yet a United States citizen.
- 4) You testified that you applied for health insurance through NYSOH with the assistance of someone named [REDACTED]. You testified that, any time you need to update your NYSOH account or upload documentation, [REDACTED] does these things for you.
- 5) Your NYSOH account lists [REDACTED] as your account representative beginning as of May 1, 2014, and states that she is a navigator from the Community Service Society of New York.

- 6) You testified that your spouse became a naturalized citizen in October of 2014.
- 7) You testified that, when your spouse became a naturalized citizen, she had to surrender her Permanent Resident Card, so it was no longer in her possession after October of 2014.
- 8) You testified that, as soon as she became a naturalized citizen, you provided her Certificate of Naturalization to your navigator.
- 9) You testified that you believe your navigator uploaded your spouse's Certificate of Naturalization to your NYSOH account when you provided it to her.
- 10) You testified that you did receive the August 11, 2015 eligibility determination stating that your spouse was conditionally eligible for Medicaid, pending proof of her citizenship status.
- 11) You testified that it was your belief that your navigator again submitted your Certificate of Naturalization at that time.
- 12) You testified that you recalled updating your NYSOH account in June 2016.
- 13) You testified that you were under the impression that your spouse had coverage in July 2016 because the June 16, 2016 eligibility determination stated that your spouse's eligibility began on July 1, 2016.
- 14) You testified that your spouse had to have emergency surgery on her foot in July 2016.
- 15) You testified that you did not know that your spouse did not have coverage until one of the bills for your spouse from July 2016 was denied for payment.
- 16) You testified that you went to your navigator after the bill was denied, and she looked up your account and told you that NYSOH was stating that you had not submitted documentation of your citizenship.
- 17) You testified that you gave your navigator another copy of your spouse's Certificate of Naturalization at that time.
- 18) Your NYSOH account reflects that the following documents were uploaded to your account by "[REDACTED]" on the following dates:

- a. March 23, 2014 – a copy of your spouse’s Permanent Resident Card (██████████);
 - b. August 11, 2015 – a copy of your spouse’s Permanent Resident Card (██████████)
 - c. June 16, 2016 – a copy of your spouse’s Certificate of Naturalization, showing that your spouse became a citizen of the United States on October 9, 2014 (██████████).
- 19) Your NYSOH account reflects that on August 13, 2015, someone from NYSOH updated your account and changed your spouse’s citizenship/immigration status to “Immigrant Non-Citizen.”

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 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 FPL, which is \$20,090.00 for a three-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)).

Citizenship and Immigration Status

Medicaid must be provided to otherwise eligible residents of the United States who are citizens, nationals, or qualified non-citizens who have provided satisfactory documentary evidence of their qualified non-citizen status (42 CFR § 435.406).

NYSOH must verify or obtain information in order to determine that an applicant is eligible for enrollment in Medicaid. If an applicant attests to citizenship, status as a national, or lawful presence, and NYSOH is unable to verify such attestation, NYSOH must provide the applicant with a reasonable opportunity to submit satisfactory documentary evidence of their status before taking any action that adversely affects an individual's eligibility for Medicaid (42 CFR § 435.407).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse's enrollment in her MMC plan ended as of June 30, 2016 because she was no longer eligible to remain in her current health coverage.

Your spouse was found conditionally eligible for Medicaid, effective September 1, 2015. That determination is not under appeal and is therefore not reviewed here; it must therefore be presumed correct.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, with limited exceptions. This provision is called "continuous coverage."

However, a person does not receive 12 months of continuous coverage if their initial eligibility is only conditional, and the circumstances that made the coverage conditional are not resolved.

In this case, your spouse's eligibility for Medicaid as of September 1, 2015 was conditional because NYSOH needed documentation of your spouse's citizenship status. Though you credibly testified that you gave your navigator, [REDACTED], a copy of your spouse's Certificate of Naturalization as soon as she became a citizen in October 2014, there is no record that this document was ever uploaded

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to your NYSOH account at that time. The only document pertaining to your spouse's immigration status that existed in your account prior to August 2015 was a copy of your spouse's Permanent Resident card.

You credibly testified that, when you updated your application in August 2015, you again provided your navigator with a copy of your spouse's Certificate of Naturalization, and that you believed that she again provided this document to NYSOH. However, the only document uploaded to your NYSOH account in August of 2015 was another copy of your spouse's Permanent Resident card, which was uploaded by "[REDACTED]" on August 11, 2015. You credibly testified that your spouse no longer had her Permanent Resident card as of August 2015, as she had to surrender it when she became a U.S. citizen in 2014. Therefore, you could not have provided it to your navigator in August of 2015.

There is no indication that you or your spouse were ever informed that the documentation that was uploaded on August 11, 2015 was not sufficient to satisfy NYSOH's request for proof of your spouse's citizenship. It appears that this is because, after your navigator uploaded another copy of your Permanent Resident card on August 11, 2015, someone from NYSOH updated your application to state that your spouse was an Immigrant Non-Citizen, presumably based on the documentation provided. Moreover, since you believed that your navigator had uploaded your spouse's Certificate of Naturalization to your NYSOH account on two separate occasions, including in August 2015, you had no reason to believe that you had not proven your spouse's citizenship status.

Your NYSOH account reflects that a copy of your spouse's Certificate of Naturalization was first uploaded to your NYSOH account on June 16, 2016. However, it was reasonable for you to believe, based on the assurances of your navigator that she had uploaded your Certificate of Naturalization, and the fact that you did not hear otherwise from NYSOH, that you had provided the necessary citizenship documentation much earlier.

Had it not been for the errors made by your navigator, the proper documentation would have been uploaded to your account in August 2015, and your spouse's eligibility would no longer have been conditional. Therefore, she would have been entitled to 12 months of continuous Medicaid coverage.

As such, your spouse would have been entitled to full Medicaid eligibility, which would have afforded her 12 months of continuous coverage. Therefore, the June 16, 2016 disenrollment notice, removing her from her MMC plan, is **RESCINDED**.

The second issue under review is whether your spouse was properly found eligible for \$0.00 in APTC, effective July 1, 2016.

Pursuant to the discussion above, your spouse should have been eligible for Medicaid for a continuous period of 12 months, beginning September 1, 2015. Even after you reported an increase in income in your June 2016 application, your spouse should have remained eligible for Medicaid for a 12-month period ending on August 31, 2016.

Therefore, the June 16, 2016 eligibility determination, insofar as it states that your spouse was eligible for APTC of \$0.00, effective July 1, 2016, is MODIFIED to state that your spouse remains eligible for Medicaid.

Ordinarily, her Medicaid eligibility would have continued until August 31, 2016. However, since your family enrolled in and paid for a qualified health plan in the month of August 2016, your case is RETURNED to NYSOH to re-enroll your spouse in Medicaid and her MMC plan for the month of July 2016 only.

Decision

The June 16, 2016 disenrollment notice is RESCINDED.

The June 16, 2016 eligibility determination notice is MODIFIED to state that your spouse is no longer eligible for Medicaid, but that her Medicaid coverage will continue until July 31, 2016.

Your case is RETURNED to NYSOH to reinstate your spouse into her Medicaid and MMC coverage for the month of July 2016.

Effective Date of this Decision: January 6, 2017

How this Decision Affects Your Eligibility

Your spouse's Medicaid and MMC coverage will be reinstated for the month of July 2016.

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

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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

The June 16, 2016 disenrollment notice is **RESCINDED**.

The June 16, 2016 eligibility determination notice is **MODIFIED** to state that your spouse is no longer eligible for Medicaid, but that her Medicaid coverage will continue until July 31, 2016.

Your case is **RETURNED** to NYSOH to reinstate your spouse into her Medicaid and MMC coverage for the month of July 2016.

Your spouse's Medicaid and MMC coverage will be reinstated for the month of July 2016.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

