



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

## Notice of Decision

Decision Date: March 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012164

[REDACTED]

Dear [REDACTED],

On January 18, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's July 17, 2016 eligibility determination; July 17, 2016 disenrollment; July 21, 2016 eligibility determination; and August 12, 2016 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.

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## Decision

Decision Date: March 07, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012164



## 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 your youngest child was newly eligible to purchase a qualified health plan (QHP) at full cost effective August 1, 2016?

Did NYSOH properly determine that you and your spouse were newly eligible to purchase a QHP at full cost effective August 1, 2016?

Did NYSOH properly disenroll you from your Essential Plan because you were enrolled in other health insurance or Medicare?

Did NYSOH properly determine you, your spouse and eldest child eligible for Medicaid as of July 21, 2016 and subsequently eligible for Medicaid continuous coverage as of August 12, 2016.

## Procedural History

On April 19, 2016, NYSOH rendered a preliminary eligibility determination, based on your attested yearly income of \$47,115.12 stating that: (1) you and your spouse were eligible to enroll in the Essential Plan, with a \$20.00 premium per month; (2) your eldest child was eligible to enroll in a Child Health Plus, with a \$9.00 monthly premium; and (3) your youngest child was eligible to enroll in Medicaid.

On April 20, 2016, NYSOH issued an enrollment notice confirming that: (1) you and your spouse were enrolled in an Essential Plan with an enrollment start date of June 1, 2016; (2) your eldest child was enrolled in a Child Health Plus plan

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with an enrollment start date of June 1, 2016; and (3) your youngest child was enrolled in a Medicaid Managed Care (MMC) plan with an enrollment start date of June 1, 2016.

On June 15, 2016, NYSOH issued a notice that it was time to renew your, your spouse's and children's health insurance. That notice stated that based on the information from federal and state sources, NYSOH could not make a decision about whether your family qualified for financial help paying for your health coverage, and that you needed to update your account by July 15, 2016 or you might lose the financial assistance your family was currently receiving.

No updates were made to your NYSOH by July 15, 2016.

On July 17, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse, and youngest child were found newly eligible to purchase a qualified health plan at full cost through NYSOH effective as of August 1, 2016.

Also on July 17, 2016, NYSOH issued a disenrollment notice stating that your Essential Plan coverage would end July 31, 2016, because you had other (full benefit) health insurance or Medicare.

On July 20, 2016, your NYSOH account was updated and your annual household income was changed to \$0.00.

On July 21, 2016, NYSOH issued three notices:

- (a) An eligibility determination notice stating that you, your spouse, and two children were eligible for Medicaid;
- (b) An enrollment notice confirming that your spouse and two children were enrolled in a MMC plan with an enrollment start date of September 1, 2016;
- (c) A disenrollment notice stating that your eldest child's Child Health Plus plan would end August 1, 2016.

On August 10, 2016, additional documentation was uploaded to your NYSOH account ( [REDACTED] ).

On August 11, 2016, your NYSOH account was updated and your annual household income was changed to \$40,992.00.

On August 12, 2016, NYSOH issued an eligibility determination notice stating that you, your spouse, and your children were no longer eligible for Medicaid. However, your and your spouse's coverage would continue until June 30, 2017, and your children's coverage would continue until July 31, 2017.

On August 25, 2016, additional documentation was uploaded to your NYSOH account (██████████).

On August 31, 2016, your NYSOH was updated and your annual household income was changed to \$47,115.12.

On September 1, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that you were enrolled in a MMC plan with an enrollment start date of October 1, 2016.

Also on September 1, 2016, additional documentation was uploaded to your NYSOH account (██████████).

On September 22, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you, your spouse, and children were found eligible for Medicaid continuous coverage.

On January 18, 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.

The Hearing Officer from the NYSOH Appeals Unit requested a recording of the appellant's July 20, 2016 conversation with NYSOH's customer service. That recording has been incorporated into the record as "Appellant Exhibit A."

## **Findings of Fact**

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

- 1) According to your NYSOH account and testimony, you are applying for health insurance for yourself, your spouse, and two children.
- 2) According to your NYSOH account, your children were born on ██████████ and ██████████.
- 3) Your youngest child was determined eligible for Medicaid effective May 1, 2016 (see ██████████).
- 4) You and your spouse were determined eligible for and enrolled in an Essential Plan effective May 1, 2016 (see ██████████; ██████████).
- 5) Your eldest child was enrolled in Child Health Plus plan with an enrollment state date of June 1, 2016 (██████████).

- 6) According to your NYSOH account, you expected to file your 2016 federal income tax return, jointly with your spouse, and expected to claim your two children as dependents on that tax return.
- 7) According to your July 20, 2016 application, your annual household income was changed from \$47,115.12 to \$0.00.
- 8) You testified that you did not change your household income on July 20, 2016.
- 9) You contacted NYSOH on July 20, 2016 because you had received a disenrollment notice stating that your Essential Plan was being terminated because you were enrolled in other health insurance or Medicare. You did not mention a change in annual household income (Appellant Exhibit A).
- 10) On August 10, 2016, you uploaded a Certificate of Group Health Plan Coverage from MVP Healthcare to your account. The certificate states that you were enrolled in a health plan from February 1, 2014 through May 15, 2016 (██████████).
- 11) On September 1, 2016, you uploaded your 2015 Form 1040 U.S. Individual Tax Return. ██████████ of the tax return indicates that your adjusted gross income is \$47,144.00 (██████████).
- 12) You currently reside in ██████████ County, New York.

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

## **Applicable Law and Regulations**

### Medicaid - Adults

Medicaid through NYSOH can be provided 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 2016 FPL, which is \$24,300.00 for a four-person household (81 Federal Register 4036).

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)).

### Medicaid – Children

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the FPL for the applicable family size. (42 CFR § 435.118(c); New York Department Health Administrative Directive 13 ADM-03).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Health Administrative Directive 13 ADM-03).

All children under the age of 19 who are determined eligible for Medicaid shall remain eligible until the last day of the twelfth month following the determination or the last day of the month the child reaches the age of 19 (NY Social Services Law § 366(4)(b)(3)).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).



The “period of eligibility” for CHP is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

### Essential Plan - Eligibility

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

### Essential Plan - Renewal

New York State has also elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and remain state residents.

An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances (42 CFR § 600.340(f); NY Social Services Law § 369-gg(3) and (4)(d)). Enrollees are required to report changes in circumstances within 30 days, which NYSOH will assess and act upon accordingly (New York’s Basic Health Plan Blueprint, p. 17, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your youngest child was eligible to purchase a qualified health plan at full cost effective as of August 1, 2016.



Generally, once individuals are determined eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage even if the individual loses Medicaid eligibility because of any changes or updates they make to their account. This twelve-month period is based on the start date of the original Medicaid eligibility determination.

On April 16, 2016, NYSOH determined that your youngest child was eligible for Medicaid and was enrolled in a MMC plan with an effective date of May 1, 2016.

Once NYSOH determined that your youngest child eligible for Medicaid, they should have been eligible for Medicaid for twelve continuous months. The July 17, 2016, notice stated, in relevant part, that your youngest child qualified to enroll in a qualified and did not qualify for Medicaid. Since your youngest child was not properly given twelve months of continuous coverage, it must be RESCINDED.

Your case is RETURNED to NYSOH to effectuate your youngest child's Medicaid coverage from May 1, 2016 through April 30, 2017.

The second issue under review is whether NYSOH properly determined you and your spouse newly eligible to purchase a QHP at full cost effective August 1, 2016.

On April 15, 2016, you submitted an application for financial assistance. As a result of this application, you and your spouse were found eligible for the Essential Plan as of May 1, 2016, and you and your spouse were enrolled into a plan.

On June 15, 2016, NYSOH issued a renewal notice stating that based on information from federal and state sources, NYSOH could not make a decision about whether you and your spouse would qualify for financial help paying for your health coverage, and that you needed to update your account by July 15, 2016, or you might lose the financial assistance you were currently receiving.

On June 17, 2016 NYSOH issued an eligibility determination notice, in relevant part, that you and your spouse were determined eligible to enroll in a qualified health plan at full cost and not eligible for the Essential Plan effective August 1, 2016, because you did not respond to the renewal notice.

New York State has elected to redetermine Essential Plan enrollees every 12 months from the effective date of eligibility as long as enrollees are under age 65, are not enrolled in minimum essential coverage, and are state residents. An individual enrolled in the Essential Plan shall have his or her coverage continued until the end of the 12-month period, provided he or she does not lose eligibility by reason of citizenship status, lack of state residence, failure to provide a valid social security number, providing inaccurate information that would affect

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eligibility when requesting or renewing health coverage, failure to make the applicable premium payment, or changes in circumstances.

Since you and your spouse were found eligible for and enrolled in the Essential Plan as of May 1, 2016, your coverage should have continued for 12 months; that is, until April 30, 2017, barring any of the disqualifying events stated above.

In the present case, NYSOH issued an eligibility determination notice stating that you were no longer eligible for financial assistance because you did not respond to the renewal notice. Therefore, the record does not contain one of the disqualifying events that would have ended your coverage in the Essential Plan prior to the end of the 12-month period.

NYSOH improperly redetermined your eligibility prior to the expiration of the 12-month period of eligibility, the June 17, 2016, eligibility determination notice is **RESCINDED**.

The third issue is whether NYSOH properly disenrolled you from your Essential Plan because you were enrolled in other health insurance or Medicare.

When an individual is eligible for minimum essential coverage, outside of NYOSH, they are ineligible to enroll in an Essential Plan.

On July 17, 2016, NYSOH issued a disenrollment notice advising that your coverage in your Essential Plan would end as of July 31, 2016 because you had other health insurance or Medicare.

However, the record supports that you have not been enrolled in health insurance coverage outside of NYSOH since May 15, 2016.

Since the record supports that you were not enrolled in third-party health insurance during the period in question, you were incorrectly disenrolled from your Essential Plan on the basis of being enrolled in third-party health insurance.

The June 17, 2016, disenrollment notice is **RESCINDED**.

The fourth issue is whether NYSOH properly determined you, your spouse and eldest child eligible for Medicaid as of July 21, 2016 and subsequently eligible for Medicaid continuous coverage as of August 12, 2016.

According to the record, you expect to file your 2016 federal income tax return jointly, with your spouse, and claim two dependents on that return.

On your July 20, 2016 application, your account reflects that you attested to an expected household income of \$0.00.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$24,300.00 for a four-person household. Since \$0.00 is 0.00% of the 2016 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, the available record reflects the income listed in that application was not correct because you did not update your income on July 20, 2016. Furthermore, on September 1, 2016 you submitted your 2015 Form 1040 U.S. Individual Income Tax Return that reflects an adjusted gross income of \$47,144.00.

Therefore, your household income at the time of the June 20, 2016, application was \$47,144.00. Since \$47,144.00 is 194.01% of the 2016 FPL, it is greater than the allowable Medicaid limit for you, your spouse, and eldest child.

Therefore, the July 21, 2016, eligibility determination is RESCINDED insofar as determining you, your spouse, and eldest child eligible for Medicaid.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months whether or not their income increases. This is referred to as "continuous coverage."

Since the July 21, 2016, eligibility determination was issued based on incorrect information and is not supported by the record, the continuous coverage policy should not have been applied. Therefore, the August 12, 2016, eligibility determination notice is also RESCINDED.

Therefore, your case is RETURNED to NYSOH to redetermine your, your spouse's and eldest child's eligibility based on a four-person household, residing in ██████████ County, with an expected annual income of \$47,144.00 and to facilitate the transition to the correct coverages.

## **Decision**

The July 17, 2016, eligibility determination notice stating that you, your spouse, and youngest child were eligible to enroll in a qualified health plan effective August 1, 2016 is RESCINDED.

The July 17, 2016, disenrollment notice stating that your Essential Plan coverage would end July 31, 2016, because you had other (full benefit) health insurance or Medicare is RESCINDED.

The July 20, 2016, eligibility determination notice stating that you, your spouse, and eldest child are eligible for Medicaid is RESCINDED.

The August 12, 2016, eligibility determination notice stating that you, your spouse, and eldest child's Medicaid coverage would continue until June 30, 2017, and July 31, 2017 is RESCINDED.

The case is RETURNED to NYSOH to effectuate your youngest child's Medicaid coverage from May 1, 2016 through April 30, 2016.

The case is RETURNED to NYSOH to redetermine your, your spouse's and eldest child's eligibility based on a four-person household, residing in ██████████ County, with an expected annual income of \$47,144.00 and to facilitate the transition to the correct health insurance coverages as of July 20, 2016.

**Effective Date of this Decision:** March 07, 2017

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

NYSOH incorrectly redetermined your, your spouse's, and your youngest child's eligibility before the conclusion of your 12-month period eligibility period.

NYSOH incorrectly disenrolled you from your Essential Plan on the basis of having third-party health insurance.

NYSOH incorrectly determined you, your spouse, and eldest child eligible for Medicaid and for continuous coverage in Medicaid.

Your youngest child was eligible for Medicaid coverage from May 1, 2016 through April 30, 2017.

Your case is RETURNED to NYSOH to redetermine your, your spouse's and eldest child's eligibility based on a four-person household, residing in ██████████ County, with an expected annual income of \$47,144.00 and to facilitate the transition to the correct health insurance coverages as of July 20, 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:  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

NYSOH incorrectly redetermined your, your spouse's, and your youngest child's eligibility before the conclusion of your 12-month period eligibility period.

NYSOH incorrectly disenrolled you from your Essential Plan on the basis of having third-party health insurance.

NYSOH incorrectly determined you, your spouse, and eldest child eligible for Medicaid and for continuous coverage in Medicaid.

Your youngest child was eligible for Medicaid coverage from May 1, 2016 through April 30, 2017.

Your case is RETURNED to NYSOH to redetermine your, your spouse's and eldest child's eligibility based on a four-person household, residing in [REDACTED]

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County, with an expected annual income of \$47,144.00 and to facilitate the transition to the correct health insurance coverages as of July 20, 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:**

