



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

## Notice of Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012294

[REDACTED]

Dear [REDACTED]

On January 20, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's September 24, 2016 enrollment confirmation 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.

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## Decision

Decision Date: February 28, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012294

[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 children's enrollment in your Medicaid Managed Care (MMC) plan was effective November 1, 2016?

## Procedural History

On July 23, 2015, NYSOH issued a notice of eligibility determination stating that your older child was eligible for Medicaid, effective September 1, 2015 and your newborn was eligible for Medicaid, effective July 1, 2015.

On May 4, 2016, NYSOH issued a notice that it was time to renew your children's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your children would qualify for financial help paying for health coverage, and that you needed to update your account between May 16, 2016 and June 15, 2016 or they might lose the financial assistance they were currently receiving.

No updates were made to your account by May 4, 2016.

On June 17, 2016, NYSOH issued an eligibility determination notice stating that your older child was eligible to purchase a qualified health plan at full cost, effective July 1, 2016, and you must pick a health plan for him.

Also on June 17, 2016, NYSOH issued an eligibility determination notice stating that your newborn 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. She also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed her renewal within the required time frame. The notice further stated her eligibility was to end effective June 30, 2016.

Also on June 17, 2016, NYSOH issued a disenrollment notice stating that your newborn's Medicaid Manage Care (MMC) plan would end effective June 30, 2016.

On September 1, 2016, NYSOH received your children's updated application for health insurance.

On September 2, 2016, NYSOH issued a notice, based on your September 1, 2016 updated application, stating that additional information is required to confirm your children's eligibility. The notice also stated that you must provide proof of income by September 16, 2016.

On September 13, 2016, you again updated your children's application for health insurance.

On September 14, 2016, NYSOH issued a notice stating that additional information is required to confirm your children's eligibility. That notice also stated that you must provide proof of income by September 16, 2016 and your newborn's proof of citizenship status and her Social Security number by November 1, 2016.

Also on September 14, 2016, you submitted proof of your income and proof of your newborn's citizenship and Social Security number, consisting of a letter of separation from a previous employer, an attestation of no income letter from your spouse, and a copy of your newborn's birth certificate and Social Security card. These documents were validated by NYSOH on September 21, 2016 (see Documents [REDACTED], and [REDACTED], respectively).

On September 22, 2016, NYSOH issued an eligibility redetermination notice stating your children were eligible for Medicaid, effective September 1, 2016. That notice also stated that you must pick a health plan for your children.

On September 24, 2016, an enrollment confirmation notice was issued, based on your September 23, 2016 plan selection, that stated that your children were enrolled in a MMC plan with an enrollment start date of November 1, 2016.

On September 29, 2016, you spoke to NYSOH's Account Review Unit and appealed the enrollment confirmation notice insofar as it began your children's MMC plan on November 1, 2016, and not August 1, 2016.

On January 20, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until February 5, 2017 for you to submit proof of correspondence with NYSOH and New York Health Options for the months of June 2016 through August 2016.

On January 20, 2017, you submitted two Notices of Decisions On Medical Assistance from Monroe County Department of Social Services (MCDSS), dated July 22, 2016 and July 23, 2016, a Notice of Decision on your Medicaid Application from NYHO, dated July 26, 2016, two letters from New York Health Options (NYHO) dated July 26, 2016 and August 24, 2016, a letter from your oldest child's health plan, dated August 23, 2016, and your spouse's statement of no income and proof of your income. This evidence was made part of the record as "Appellant's Exhibit A". No other evidence was received by February 6, 2017 and the record is now closed.

## **Findings of Fact**

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

- 1) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by electronic mail.
- 2) You testified that you did receive the May 4, 2016 renewal notice telling you that you needed to update your application in order to renew your children's MMC coverage.
- 3) You testified that you submitted your renewal application via regular mail to NYHO and did not realize that you were determined to be over income for Medicaid based on your monthly income on the date you updated your account. You testified that you did not receive notice from NYHO until late July 2016 that you were determined to have too much income for your children to be Medicaid eligible. You feel this notice was untimely.
- 4) On January 20, 2017, you submitted two Notices of Decisions On Medical Assistance from Monroe County Department of Social Services (MCDSS) dated July 22, 2016 and July 23, 2016, a Notice of Decision on your Medicaid Application from NYHO, dated July 26, 2016, two letters from New York Health Options (NYHO) dated July 26, 2016 and August 24, 2016, a letter from your oldest child's health plan,

dated August 23, 2016, and your spouse's statement of no income and proof of your income (see Appellant's Exhibit A).

- 5) You submitted renewal documentation for your older child through MCDSS stating he was ineligible for Medicaid. His Notice Number: [REDACTED], states in part, "If you do not agree with any decision, you have a right to ask us for a fair hearing." That notice directed you to contact the Office of Temporary and Disability Assistance (OTDA) to request a fair hearing.
- 6) You also submitted renewal documentation for your younger child through NYHO and she was found ineligible for Medicaid. Her "Notice of Decision on Your Medicaid Application" dated July 26, 2016, stated in part, you have a "right to a fair hearing." That notice directed you to contact OTDA to request a fair hearing.
- 7) You testified that you first learned that your children were dis-enrolled from their MMC plan when you received letters either from NYSOH or NYHO in July 2016 stating that they did not qualify for Medicaid.
- 8) You testified that you were often confused about whether you were talking to a representative of NYSOH or NYHO.
- 9) According to your NYSOH account, on September 1, 2016, NYSOH received your children's updated application for health insurance.
- 10) According to your NYSOH account and your testimony, you selected your children's MMC plan on September 23, 2016, and their enrollment start date was November 1, 2016.
- 11) You testified that you were told by a representative of either NYSOH or NYHO that your children's medical coverage would be backdated. According to your NYSOH account, your children's Medicaid was backdated but not your children's MMC plan.
- 12) You testified that you want your children's MMC plan to begin on August 1, 2016 because your children had well visits and immunizations in August 2016.

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

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, NYSOH must review Medicaid eligibility once every twelve months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). NYSOH must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

NYSOH must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, NYSOH must issue a redetermination as provided by the notice, with consideration given to any updates provided by the individual (45 CFR §155.335(h)).

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)).

MMC 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 (MMC Model Contract (Appendix H(6)(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019, N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR § 360-10.3(h)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that your children’s enrollment in their MMC plan was effective November 1, 2016.

Your older child was originally found eligible for Medicaid, effective September 1, 2015 through your county’s DSS and your newborn was originally found eligible for Medicaid effective July 1, 2015 through NYSOH.

Generally, NYSOH must re-determine a qualified individual's eligibility for Medicaid once every 12 months without requiring information from the individual if able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's May 4, 2016 renewal notice stated that there was not enough information to determine whether your children were eligible to continue your financial assistance for

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health insurance, and that you needed to supply additional information between May 16, 2016 and June 15, 2016, or their financial assistance might end.

Because there was no timely response to this notice, your younger child was terminated from her MMC plan effective June 30, 2016.

You testified that you did receive the May 4, 2016 renewal notice telling you that you needed to update your application in order to renew your children's MMC coverage.

Therefore, the record reflects that NYSOH properly notified you of your annual renewal and that information in your NYSOH account needed to be updated in order to ensure your younger child's enrollment in her MMC plan and eligibility for financial assistance would continue.

However, you testified that you submitted your renewal application via regular mail to NYHO and did not realize that you were determined to be over income for Medicaid based on your monthly income on the date you updated your account. You also testified that you did not receive notice until late July 2016 that you were determined to have too much income for your children to be Medicaid eligible.

You testified that you first learned that your children were dis-enrolled from their MMC plan when you received letters from either NYSOH or NYHO in July 2016 stating that they do not qualify for Medicaid. You testified that you were often confused about whether you were talking to a representative of NYSOH or NYHO. You testified you would submit a correspondence from NYSOH and NYHO that would prove you timely attempted to renew your children's health coverage.

The record was kept open until February 5, 2016, to allow you time to submit proof of correspondence with NYSOH and NYHO. On January 20, 2017, you submitted two Notices of Decisions On Medical Assistance from MCDSS dated July 22, 2016 and July 23, 2016, two letters from NYHO dated July 26, 2016 and August 24, 2016, a Notice of Decision on Your Medicaid Application for your younger child from NYHO dated July 26, 2016 and your spouse's statement of no income and your proof of income (see Appellant's Exhibit A).

Although you testified that you did submit your children's renewal paperwork via regular mail to NYHO, your submitted documentation reflects that you submitted your older child's renewal through MCDSS and your younger child's renewal through NYHO. Both NYHO and MCDSS found that your children were not eligible for Medicaid based on your submitted income documentation. However, NYSOH lacks jurisdiction to determine whether or not MCDSS or NSHO eligibility determinations were correct or timely. As directed in both notices, you were to contact OTDA to request a fair hearing but, being confused, you contacted

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NYSOH. The timeliness of the notices you received from NYHO and MCDSS should be raised before OTDA.

Since NYSOH's Appeals Unit has no jurisdiction over MCDSS or NYHO, we can only review whether NYSOH, the State's Health Exchange, properly determined that your children's enrollment in their MMC plan was effective November 1, 2016.

According to your NYSOH account, the record shows that on September 1, 2016 you updated the information in your NYSOH account and submitted a request to enroll your children in a MMC plan. On September 2, 2016, NYSOH issued a notice, based on that application, that you needed to submit proof of your income to make an eligibility determination. On September 13, 2016, you updated your account once more and on September 14, 2016, NYSOH issued an eligibility redetermination stating that you needed to provide proof of your income and your newborn's citizenship and Social Security number. NYSOH received the proof of income and proof of your newborn's citizenship and Social Security number on September 14, 2016 and this information was verified on September 21, 2016. That day, your children's application for health insurance was complete.

On September 22, 2016, NYSOH issued an eligibility redetermination notice, based on your verified documentation and information, stating that your children were eligible for Medicaid. You enrolled your children in a MMC plan on September 23, 2016 with an effective date of November 1, 2016.

The date on which a MMC plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected after the fifteenth day of a month goes into effect on the first day of the second following month.

Since you selected your children's MMC plan on September 23, 2016, it must take effect on the first day of the second month following September 2016; that is, on November 1, 2016.

Therefore, NYSOH's September 24, 2016, enrollment confirmation notice is AFFIRMED because it properly began your enrollment in your MMC plan on November 1, 2016.

## **Decision**

The September 24 2016 enrollment confirmation notice is AFFIRMED.

**Effective Date of this Decision:** February 28, 2017

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

This decision does not change your children's eligibility.

The effective date of your children's MMC plan is November 1, 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 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

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## **Summary**

The September 24, 2016 enrollment confirmation notice is AFFIRMED.

This decision does not change your children's eligibility.

The effective date of your children's MMC plan is November 1, 2016.

## **Legal Authority**

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

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

