



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

## Notice of Decision

Decision Date: March 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012511

[REDACTED]

Dear [REDACTED],

On January 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 12, 2016 and September 15, 2016 eligibility determinations.

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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## Decision

Decision Date: March 2, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000012511

[REDACTED]

## Issues

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

Did NY State of Health properly determine your children were eligible for Medicaid effective September 1, 2016?

Did NY State of Health properly determine your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until August 31, 2017?

## Procedural History

On January 31, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating your children were eligible to enroll in Child Health Plus with \$30.00 monthly premiums, effective March 1, 2016. This notice indicated your household income was \$63,100.00.

On February 1, 2016, NYSOH issued a notice of enrollment confirmation stating your children were enrolled in Child Health Plus plans with a \$60.00 collective monthly premium, effective April 1, 2015.

On August 11, 2016, NYSOH received your updated application for health insurance; specifically, your updated household income information.

On August 12, 2016, NYSOH issued a notice of eligibility determination stating your children were eligible for Medicaid, effective September 1, 2016, because the household income you provided, \$27,974.00, was under the allowable income limit of \$37,422.00 to qualify for Medicaid.

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Also on August 12, 2016, NYSOH issued a notice of disenrollment stating your children's coverage in their Child Health Plus plans were terminated, effective August 31, 2016.

On September 14, 2016, NYSOH issued a notice of eligibility determination, based on the final updated application submitted on September 13, 2016, stating your children were no longer eligible for Medicaid. However, their Medicaid coverage would continue until August 31, 2017 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date they were determined eligible. This eligibility was effective as of September 1, 2016.

On September 15, 2016, NYSOH issued a notice of eligibility determination, based on the final updated application submitted on September 14, 2016, stating your children were no longer eligible for Medicaid. However, their Medicaid coverage would continue until August 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date they were determined eligible. This eligibility was effective as of September 1, 2016.

Also on September 15, 2016, NYSOH issued a notice of enrollment confirmation stating your children were enrolled in Medicaid Managed Care plans, effective October 1, 2016.

On October 13, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of this eligibility determination insofar as your children's Medicaid coverage was continued and they were not found eligible for another insurance program.

On January 31, 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.

## **Findings of Fact**

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

- 1) You testified you expect to file your 2016 federal income tax return as married filing jointly, and claim two dependents.
- 2) On August 11, 2016, you contacted NYSOH to update your account and report a decrease in household income.
- 3) According to the August 11, 2016 updated application, you attested to an expected annual household income of \$27,974.00. At the hearing,

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you testified this income was not an accurate representation of your household income at that time.

- 4) You testified, when updating your application on August 11, 2016, you estimated the income information reported. You further testified you were told you could call back at a later time to give more accurate information.
- 5) You testified the \$21,924.00 listed on that application for your spouse's annual income sounded like the net amount after taxes were deducted. You testified his average gross monthly income at the time was \$4,000.00.
- 6) NYSOH appeals unit reviewed the August 11, 2016 telephone call you made to NYSOH and found:
  - a. The representative did not clarify whether the income amount listed for your spouse was gross or net.
  - b. You were advised you could call back at a later time, or during open enrollment, to update your application with more accurate information.
- 7) The household income amount listed in your application was updated several times on September 13, 2016 and September 14, 2016.
- 8) You testified the updates on September 13, 2016 and September 14, 2016 were made by your broker. You testified you believed your broker used your spouse's gross income amount when calculating the household income.
- 9) NYSOH issued a notice of eligibility determination on September 15, 2015 based on the final application update submitted on September 14, 2016 which listed household income amount as \$55,394.00. Therein your children were determined ineligible for Medicaid on the basis of the household income but their Medicaid coverage would continue until the end of the continuous coverage 12-month period.
- 10) You testified \$55,394.00 sounded like an accurate gross household income amount for 2016.
- 11) You testified you are seeking Child Health Plus eligibility for your children, as of September 1, 2016, because the August 12, 2016 Medicaid eligibility was based on inaccurate income information.

- 12) The record reflects your account was updated on December 6, 2016 for the 2017 coverage year, wherein your household income was reduced to \$11,668.00.
- 13) Following this update, your family was determined eligible for Medicaid, effective December 1, 2016.
- 14) You testified you reside in ██████ County.

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

## **Applicable Law and Regulations**

### Medicaid for Children

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 federal poverty level (FPL) for the applicable family size (42 CFR § 435.118(c); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 was \$24,300.00 for a four-person household (81 Federal Register 4036).

### Medicaid Continuous Coverage

Generally, most applicants 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 your children were eligible for Medicaid effective September 1, 2016.

You are in a four-person household. According to the record, you expect to file your 2016 tax return as married filing jointly and claim two children as dependents.

On your August 11, 2016 application, you attested to an expected household income of \$27,974.00.

Medicaid can be provided through NYSOH to children between the ages of 1 and 19 who meet the non-financial requirements and have a household MAGI that is at or below 154% 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 \$27,974.00 is 115.12% of the 2016 FPL, NYSOH properly found your children to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, you credibly testified the income listed on that application was not correct because the representative updating your account utilized your spouse's net income rather than his gross income amount. This is corroborated by a review of the August 11, 2016 telephone call you placed to NYSOH wherein the representative fails to confirm the income amount reported for your spouse was the gross amount received, rather than the net amount.

You further testified your broker attempted to correct your application on September 14, 2016 and again on September 15, 2016 by imputing your spouse's gross income amount. You testified the final updated application submitted on September 15, 2016, listing a household income of \$55,394.00, appeared to be the accurate amount of gross household income for 2016.

Therefore, the credible evidence of record establishes your household income at the time of the August 11, 2016 application was \$55,394.00. Since \$55,394.00 is 227.96% of the 2016 FPL, it is greater than the allowable Medicaid limit, and the August 12, 2016 eligibility determination notice finding you eligible for Medicaid is not supported by the record and is **RESCINDED**.

The second issue is whether NYSOH properly determined your children were no longer eligible for Medicaid, but they would continue to receive Medicaid coverage until August 31, 2017.

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.”

However, since the August 12, 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 to your children. Therefore, the September 15, 2016 eligibility determination notice is also RESCINDED.

## **Decision**

The August 12, 2016 and September 15, 2016 eligibility determination notices are RESCINDED.

Your case is RETURNED to NYSOH to redetermine your children’s eligibility, as of September 1, 2016, based on a four-person household, residing in ██████████ County with an expected annual income of \$55,394.00.

**Effective Date of this Decision:** March 2, 2017

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

Your case is being sent back to NYSOH to redetermine your children’s eligibility, as of September 1, 2016, based on the information presented during the hearing. You will receive an eligibility determination notice informing you of your children’s new eligibility.

This decision does not affect subsequent eligibility determinations.

## **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 August 12, 2016 and September 15, 2016 eligibility determination notices are RESCINDED.

Your case is being sent back to NYSOH to redetermine your children's eligibility based on the information presented during the hearing. You will receive an eligibility determination notice informing you of your children's new eligibility.

This decision does not affect subsequent eligibility determinations.

### **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:**

