



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

Notice of Decision

Decision Date: February 1, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012636

[REDACTED]

Dear [REDACTED],

On December 20, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 8, 2016 eligibility determination and disenrollment notices and October 7, 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.

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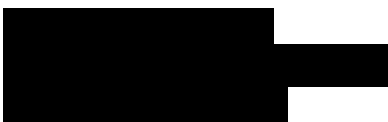


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NY State of Health Account ID: [REDACTED]
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Issues

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

Did NY State of Health properly determine that your spouse was no longer eligible for Medicaid, effective April 30, 2016?

Did NY State of Health properly determine that your newborn child was not eligible for Medicaid, effective August 1, 2016?

Procedural History

On March 22, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your March 21, 2016 updated application, stating that your spouse was conditionally eligible for Medicaid because your household income of \$20,800.00 was at or below the allowable income limit. This eligibility was effective as of March 1, 2016. The notice further stated that your spouse needed to confirm her Social Security number before June 19, 2016.

Also on March 22, 2016, NYSOH issued an enrollment confirmation notice, based on your March 21, 2016 plan selection, stating that your spouse was enrolled in a Medicaid Managed Care plan, effective April 1, 2016.

On March 31, 2016, NYSOH received your spouse's Social Security card stating that it was valid for work only with U.S. Department of Homeland Security (DHS) authorization.

On April 8, 2016, NYSOH issued a notice of eligibility determination stating that your spouse qualified to enroll in the Essential Plan because her household income is less than the income limit of \$21,984.00 and she was an immigrant living in the United States under the color of law (PRUCOL). This eligibility was effective May 1, 2016.

Also on April 8, 2016, NYSOH issued a disenrollment notice stating that your spouse's coverage in her Medicaid Managed Care Plan would end effective April 30, 2016. This was because she was no longer eligible to remain enrolled her current plan.

Also on April 8, 2016, NYSOH issued an enrollment confirmation notice stating that your spouse was enrolled in the Essential Plan 3 with a premium of \$0.00 per month, effective May 1, 2016.

On September 13, 2016, you added your newborn child (newborn) to your application.

On September 14, 2016, NYSOH issued a notice, based on your September 13, 2016 updated application, stating that the income information in your application does not match what NYSOH received from state and federal data sources. The notice further stated that in order to determine your newborn's eligibility, you must provide proof of income by September 28, 2016 and your newborn's proof of citizenship status and his Social Security number by December 12, 2016.

On September 17, 2016, you updated your application and submitted your paystubs to NYSOH as proof of income, which were validated by NYSOH on September 28, 2016.

On September 29, 2016, NYSOH issued a disenrollment notice, based on your September 28, 2016 update, stating that your spouse's Essential Plan will end effective October 31, 2016.

On October 7, 2016, NYSOH issued an eligibility redetermination notice, based on your September 28, 2016 update, stating that your spouse is eligible for a tax credit of \$0.00 per month and must confirm her plan selection by November 27, 2016. That notice also stated that your newborn was eligible for Child Health Plus with a premium of \$30.00 per month, effective November 1, 2016, once you select a plan for him.

On October 13, 2016, NYSOH issued a notice, based on your October 12, 2016 updated application, stating that the income information in your application does not match what NYSOH received from state and federal data sources. The notice stated that in order to determine your newborn's eligibility, you must provide proof of income by October 27, 2016.

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On October 15, 2016, NYSOH issued an eligibility redetermination notice, based on your October 14, 2016 updated application, stating that your newborn was eligible for Child Health Plus with a premium of \$15.00 per month, effective November 1, 2016.

Also on October 15, 2016, NYSOH issued an enrollment confirmation notice, based on your October 14, 2016 plan selection, stating that your newborn was enrolled in a Child Health Plus plan with a premium of \$15.00 per month, effective November 1, 2016.

Also on October 15, 2016, NYSOH issued an eligibility determination notice, based on your October 14, 2016 application, stating that your newborn was not eligible for help paying medical bills from August 1, 2016 through September 30, 2016. This was because the program he was eligible for cannot pay for any care he received in the past.

On October 19, 2016, NYSOH issued an eligibility redetermination notice, based on your October 18, 2016 updated application, stating that your newborn was eligible for Child Health Plus with a premium of \$15.00 per month, effective December 1, 2016.

Also on October 19, 2016, NYSOH issued an enrollment confirmation notice, based on your October 18, 2016 plan selection, stating that your newborn was enrolled in a Child Health Plus plan with a premium of \$15.00 per month, effective November 1, 2016.

Also on October 19, 2016, NYSOH issued an eligibility determination notice, based on your October 18, 2016 application, stating that your newborn was not eligible for help paying medical bills from August 1, 2016 through September 30, 2016. This was because the program he was eligible for cannot pay for any care he received in the past.

Also on October 19, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of your newborn's eligibility.

On December 20, 2016, 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 expect to file your 2016 federal income tax return as married filing jointly, and claim one dependent.

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- 2) According to the March 21, 2016 application, you attested to an expected annual household income of \$20,800.00. You testified that this income was an accurate representation of your household income as you were self-employed at that time.
- 3) You testified that you were hired at a new job with a considerable increase in income on March 30, 2016. You believed you would make about \$55,000.00 in 2016 at this new job.
- 4) You submitted into evidence paystubs from that new job for the month of August 2016 and December 2016. According to these documents, you began your new employment on March 30, 2016 and that as of December 16, 2016 you earned \$54,198.00 in that new job for 2016. Additionally, you submitted three of your four paystubs for the month of [REDACTED] your newborn's birth, which reflected a monthly income of \$4,360.00, not including your fourth paystub for that month.
- 5) According to your NYSOH account, on March 22, 2016, Your spouse was pregnant in March 2016 and was found conditionally eligible for Medicaid, pending submission of her immigration status.
- 6) On March 21, 2016, you submitted your spouse's Social Security card, which stated that it was valid for work only with DHS authorization.
- 7) According to your NYSOH account, your spouse's immigration status as an immigrant living in the United States under the color of law (PRUCOL), resulted in her being terminated from Medicaid on April 30, 2016 and transferred into the Essential Plan, effective May 1, 2016.
- 8) According to your NYSOH account, your spouse gave birth to your newborn [REDACTED]. You added him to your application on September 13, 2016.
- 9) According to your NYSOH account, your newborn was found eligible for Child Health Plus with a premium of \$15.00, effective November 1, 2016.
- 10) You testified that you would like your newborn to be determined eligible for Medicaid from his date of birth to cover the gap in his health coverage from [REDACTED], his date of birth, to October 31, 2016.
- 11) You testified that your newborn had some health issues when he was born and remained in the hospital for many weeks after his birth, resulting in approximately \$241,000.00 in medical bills.

- 12) According to your NYSOH account, you and your family reside in Kings County, New York.

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

Applicable Law and Regulations

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency (18 NYCRR § 349.3, 8 USC § 1613).

In cases of pregnant women who are in the first five years of their qualified status or are considered PRUCOL (includes individuals lawfully admitted for permanent residence), because they are federal Medicaid eligible, they are not eligible for the Essential Plan (NY Social Services Law § 366(1)(b)(ii)), NY Department of Social Services Administrative Directive 16 ADM-01).

Medicaid for Pregnant Women

Medicaid can be provided through the Marketplace 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists

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of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, 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 March 21, 2016 application, that was the 2016 FPL, which is \$20,160.00 for a three-person household (81 Fed. Reg. 4036).

Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

Pregnant Women/Newborn Medicaid Eligibility

Pregnant women who meet the non-financial and financial criteria for Medicaid eligibility for any month during her pregnancy is guaranteed Medicaid eligibility until the end of the month in which the 60th day occurs after the pregnancy ends. This eligibility remains regardless of any changes in household income. Infants born to women during their period of guaranteed eligibility are eligible until the end of the month in which the 60th day occurs after the birth, without regard to changes in household income (42 CFR § 435.116; SSA § 1902(a)(10); SSA § 1905(n); NY Social Services Law § 366(4)(b)) .

Legal Analysis

The first issue under review is whether NYSOH properly determined that your spouse was no longer eligible for Medicaid, effective April 30, 2016.

According to your NYSOH account, on March 21, 2016, you submitted your spouse’s application for Medicaid. She was found conditionally eligible for Medicaid, pending submission of her proof of Social Security number. On March 31, 2016, you submitted your spouse’s Social Security card, which stated that it was valid for work only with DHS authorization.

To be eligible for Medicaid in March 2016, since your spouse was pregnant that month, your spouse would have needed to meet the non-financial criteria and have an income no greater than 223% of the 2016 FPL, which is \$44,957.00 per year for a three-person household size. According to the March 21, 2016 application, you attested to an expected annual household income of \$20,800.00. You testified that this income was an accurate representation of your household income at the time of your application.

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Since your spouse was pregnant in March 2016 and she had an attested annual household income of \$20,800.00, which is less than \$44,801.00, NYSOH properly found her eligible for Medicaid coverage based on annual financial criteria.

However, NYSOH also found her conditionally eligible pending submission of proof of her Social Security number. When your spouse submitted her Social Security number, NYSOH transitioned her into the Essential Plan, based on her immigration status.

As of January 1, 2016, legal permanent residents who were receiving Medicaid through NY State, but were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency or being a PRUCOL immigrant, must now receive coverage through the Essential Plan. The record indicates that NYSOH determined that your spouse was as an immigrant living in the United States under the color of law (PRUCOL) and thus not eligible for Medicaid.

Since NYSOH determined your spouse was a qualified immigrant in her first five years of permanent residency and, therefore, PRUCOL, she was terminated from Medicaid on April 30, 2016, and transferred into the Essential Plan, effective May 1, 2016.

However, at the time of your March 2016 application, your spouse was pregnant. Pregnant women are exempted from being transitioned into the Essential Plan due to their status of being pregnant and being eligible for federal Medicaid benefits. Since your spouse was pregnant, NYSOH erred in transitioning her from Medicaid to the Essential plan due to her PRUCOL status and, therefore, she should not have been denied Medicaid on that basis.

The sole issue remaining is whether NY State of Health properly determined that your newborn was not eligible for Medicaid, effective August 1, 2016.

You testified that you are seeking to have Medicaid coverage for your newborn as of his date of birth to cover the gap in his health coverage and cover medical and hospitalization expenses incurred relative to his birth.

Newborn children who are born to a woman who is Medicaid eligible at the time of birth, are automatically eligible for Medicaid at birth, without regard to changes in household income. Since your spouse was pregnant and found financially eligible for Medicaid in March 2016 and NYSOH incorrectly determined her Essential Plan eligible based on her immigration status, she should have been guaranteed Medicaid eligibility until the end of the month in which the 60th day occurs after the pregnancy ends. Her eligibility is guaranteed regardless of any changes in family circumstances or financial eligibility. Your spouse gave birth to

your newborn [REDACTED]. Therefore, your spouse should have remained eligible for Medicaid until October 31, 2016.

Since your newborn was born during your spouse's period of guaranteed Medicaid eligibility, he should have also been found Medicaid eligible at birth until the end of the month in which the 60th day occurs after the birth, that is from August 1, 2016 through October 31, 2016.

Therefore, in order for NYSOH to bring the eligibility determinations and redeterminations and enrollments in line with this Decision, the following must occur:

The March 22, 2016 enrollment confirmation notice stating your spouse was enrolled in a Medicaid Managed Care plan, effective April 1, 2016, is **AFFIRMED**.

The April 8, 2016 eligibility determination stating that your pregnant spouse was eligible for the Essential Plan, effective May 1, 2016, and as an immigrant living in the United States under the color of law (PRUCOL), was not eligible for Medicaid, effective April 30, 2016, is **RESCINDED**.

The April 8, 2016 disenrollment notice stating that your spouse's coverage in her Medicaid Managed Care plan would end April 30, 2016, is **RESCINDED**.

The April 8, 2016, enrollment confirmation notice stating in part that your spouse was enrolled in an Essential Plan 3, effective May 1, 2016, is **RESCINDED**.

Your case is **RETURNED** to NYSOH to **REINSTATE** your spouse in her Medicaid Managed Care Plan, effective May 1, 2016.

The October 7, 2016 eligibility determination notice is **MODIFIED** to state that your newborn was eligible for Medicaid, effective August 1, 2016.

Your case is **RETURNED** to NYSOH to facilitate your newborn's enrollment in your spouse's Medicaid Managed Care plan as of August 1, 2016.

The October 15, 2016 eligibility redetermination and enrollment confirmation notices are **AFFIRMED**.

Decision

The March 22, 2016 enrollment confirmation notice stating your spouse was enrolled in a Medicaid Managed Care plan, effective April 1, 2016, is **AFFIRMED**.

The April 8, 2016 eligibility determination stating that your pregnant spouse was eligible for the Essential Plan, effective May 1, 2016, and as an immigrant living

in the United States under the color of law (PRUCOL), was not eligible for Medicaid, effective April 30, 2016, is RESCINDED.

The April 8, 2016 disenrollment notice stating that your spouse's coverage in her Medicaid Managed Care plan would end April 30, 2016, is RESCINDED.

The April 8, 2016, enrollment confirmation notice stating in part that your spouse was enrolled in an Essential Plan 3, effective May 1, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your spouse in her Medicaid Managed Care Plan, effective May 1, 2016.

The October 7, 2016 eligibility determination notice is MODIFIED to state that your newborn was eligible for Medicaid, effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate your newborn's enrollment in your spouse's Medicaid Managed Care plan as of August 1, 2016.

The October 15, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

Effective Date of this Decision: February 1, 2017

How this Decision Affects Your Eligibility

Your spouse should have been eligible for Medicaid, effective May 1, 2016 until October 31, 2016.

Your case is RETURNED to NYSOH to REINSTATE your spouse in her Medicaid Managed Care Plan, effective May 1, 2016 through October 31, 2016, and to notify you accordingly.

Your newborn should have been eligible for Medicaid, effective August 1, 2016 until October 31, 2016.

Your case is RETURNED to NYSOH to enroll your newborn in Medicaid, effective August 1, 2016, and to notify you accordingly.

Your newborn remains eligible for Child Health Plus, effective 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):

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Summary

The March 22, 2016 enrollment confirmation notice stating your spouse was enrolled in a Medicaid Managed Care plan, effective April 1, 2016, is **AFFIRMED**.

The April 8, 2016 eligibility determination stating that your pregnant spouse was eligible for the Essential Plan, effective May 1, 2016, and as an immigrant living

in the United States under the color of law (PRUCOL), was not eligible for Medicaid, effective April 30, 2016, is RESCINDED.

The April 8, 2016 disenrollment notice stating that your spouse's coverage in her Medicaid Managed Care plan would end April 30, 2016, is RESCINDED.

The April 8, 2016, enrollment confirmation notice stating in part that your spouse was enrolled in an Essential Plan 3, effective May 1, 2016, is RESCINDED.

Your case is RETURNED to NYSOH to REINSTATE your spouse in her Medicaid Managed Care Plan, effective May 1, 2016.

The October 7, 2016 eligibility determination notice is MODIFIED to state that your newborn was eligible for Medicaid, effective August 1, 2016.

Your case is RETURNED to NYSOH to facilitate your newborn's enrollment in your spouse's Medicaid Managed Care plan as of August 1, 2016.

The October 15, 2016 eligibility redetermination and enrollment confirmation notices are AFFIRMED.

Your spouse should have been eligible for Medicaid, effective May 1, 2016 until October 31, 2016.

Your case is RETURNED to NYSOH to REINSTATE your spouse in her Medicaid Managed Care Plan, effective May 1, 2016 through October 31, 2016, and to notify you accordingly.

Your newborn should have been eligible for Medicaid, effective August 1, 2016 until October 31, 2016.

Your case is RETURNED to NYSOH to enroll your newborn in Medicaid, effective August 1, 2016, and to notify you accordingly.

Your newborn remains eligible for Child Health Plus, effective November 1, 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:

