



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

Notice of Decision

Decision Date: April 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013022

[REDACTED]

Dear [REDACTED],

On February 9, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's November 3, 2016 eligibility redetermination and disenrollment 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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Decision

Decision Date: April 05, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013022



Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health properly determine that your oldest child's financial assistance was terminated, effective November 30, 2016, because she was enrolled in other health insurance coverage outside of NYSOH?

Did NY State of Health properly determine that your oldest child was ineligible for Medicaid, effective December 1, 2016?

Procedural History

On December 17, 2015, NY State of Health (NYSOH) issued an eligibility determination notice stating that your oldest child eligible for Medicaid, effective December 1, 2015. As of that same day, NYSOH issued a notice confirming she was enrolled in a Medicaid Managed Care plan, effective January 1, 2016.

On October 9, 2016, NYSOH issued a notice that it was time to renew your oldest child's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not decide about whether she would qualify for financial help paying for health coverage. The notice directed you to update your NYSOH account for that child between October 16, 2016 and November 15, 2016 and, if you missed the deadline, she might lose the financial assistance she was currently receiving.

On November 2, 2016, NYSOH issued a preliminary eligibility redetermination, based on your November 2, 2016 updated application, stating in part that your two younger children were conditionally eligible for Medicaid and your oldest

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child was eligible to enroll in full price qualified health plan, effective December 1, 2016.

Also on November 2, 2016, you spoke to NYSOH's Account Review Unit and appealed the preliminary eligibility redetermination insofar as your oldest child was no longer eligible for Medicaid.

On November 3, 2016 NYSOH issued an eligibility redetermination notice stating that your oldest child was eligible to enroll in full price qualified health plan, effective December 1, 2016. The notice also stated that she was ineligible for Medicaid because her income of \$32,000.00 was over the allowable income limit of \$31,047.00 and she was ineligible for Child Health Plus because she was currently enrolled in other health coverage.

Also on November 3, 2016, NYSOH issued a disenrollment notice stating in part that your oldest child's Medicaid Managed Care plan would be terminated effective November 30, 2016, because she had other (full benefit) health insurance or Medicare.

Also on November 3, 2016, NYSOH issue an enrollment notice confirming your two younger children's enrollment in Medicaid. That notice also stated that your oldest child's health coverage with a qualified health plan will not begin until you pick a plan.

On November 11, 2016, based on your request, your oldest child was granted aid to continue under Medicaid through NYSOH until a decision was made on your appeal of her eligibility.

This eligibility is effective as of December 1, 2016. On February 9, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until February 24, 2017 for you to submit proof of your household income and proof of the termination date of your oldest child's third party health insurance. No documentation was received by February 24, 2017.

NYSOH Appeals Unit did receive the proof of your household income and proof of the termination date of your oldest child's third party health insurance on February 28, 2017, and proof of your household on income on March 2, 2017. In the interest of justice, the Hearing Officer allowed the documentation to be made part of the record as "Appellant's Exhibit A" and "Appellant's Exhibit B," respectively. The record was closed as of March 2, 2017.

Findings of Fact

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

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- 1) According to your NYSOH account, your oldest child was determined eligible for Medicaid effective December 1, 2015.
- 2) According to your NYSOH account, when you updated your application for health insurance on November 2, 2016, your two younger children were found Medicaid eligible, but your oldest child was found ineligible for Medicaid due to your household income being over the allowable income limit. Your oldest child was also determined ineligible for other financial assistance because she was covered by third party health insurance.
- 3) You testified that you are seeking insurance for your oldest child.
- 4) According to your NYSOH account, you have always listed only your two eldest children as tax dependents, and not your third child.
- 5) According to your submitted documentation, you filed your 2016 taxes with a tax filing status of head of household and claimed all three children as tax dependents on that tax return. You expect to file your 2017 tax return with the same tax filing status.
- 6) You testified and submitted documentation that you earned approximately \$32,000.00 in 2016. Specifically, on February 28, 2017, you faxed proof of your household income, which includes your unexecuted 2016 income tax return and, on March 2, 2017, you resubmitted that tax return with your signature on it; your oldest child's 2016 W-2 Wage Statement; and several paystubs (see Appellant's Exhibits A and B).
- 7) According to your 2016 income tax return, you earned \$30,559.00 in wages and have an IRA distribution in the amount of \$2,148.00, for a total income of \$32,707.00.
- 8) Your oldest child's 2016 W-2 Wage Statement reflects an income of \$4,768.40. NYSOH did not count your oldest child's income because this amount is less than the 2016 federal requirement for your child to file a tax return.
- 9) You testified and submitted documentation that you have allowable deductions from your income in 2016 in the form of an educator expense of \$250.00 and tuition and fees in the amount of \$4,000.00, for a total of \$4,250.00 in deductions, which equals \$28,457.00 in 2016 household income (gross income (\$32,707.00) less your deductions (\$4,250.00)).
- 10) On February 28, 2017, you also provided a Health Benefit Plan Certification of Coverage stating that your oldest child's third party health insurance was cancelled effective November 26, 2016 (see Appellant's Exhibit A).

11) You testified that your oldest child did not have coverage outside of NYSOH after November 26, 2016 because the child's stepfather lost his job and his insurance.

12) According to your NYSOH and your testimony, you are seeking to have your oldest child's eligibility for Medicaid redetermined so you can enroll her in a Medicaid Managed Care plan.

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).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Tuition and Fees Deduction

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, tuition and fees for a dependent’s higher education paid by the tax payer to a qualified educational institution can be deducted from adjusted gross income in an amount up to \$4,000.00, provided the tax payer’s yearly income does not exceed \$80,000.00 for a single individual or \$160,000.00 if married filing jointly. This deduction was renewed by Congress in December 2014 and made retroactive to the 2014 tax year and extended to December 31, 2017 (26 USC § 222(e); see IRS Publication 970).

Educator Expenses

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, certain educator expenses, including, but not limited to books, supplies and professional development courses, in an amount of up to \$250.00, may be deductions from a taxpayer’s adjusted gross income (26 USC § 62 (a)(2)(D)).

Medicaid

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), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Medicaid Managed Care 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 (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

A Medicaid recipient who has primary medical or health care coverage available from a Third-Party payor may be required to enroll with a managed care program when the payment of the premium or cost sharing amounts would be cost-effective, as determined by the local social services district (NY Soc. Serv. Law § 364-j(3)(e)(xx)).

Third Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY SSL § 364-j(3)(e)(xx); Medicaid Managed Care Model

Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

Legal Analysis

The issue for review is whether NYSOH properly determined that your child's enrollment in her Medicaid Managed Care plan was terminated effective November 30, 2016.

In the December 17, 2015 notice of eligibility determination, your oldest child was found eligible for Medicaid, effective December 1, 2015. On December 16, 2015, you selected a Medicaid Managed Care plan, effective January 1, 2016, as is documented by the December 17, 2015 notice of enrollment confirmation.

Generally, when an individual is eligible for Medicaid through NYSOH they are required to enroll in a Medicaid Managed Care plan. Applicants determined eligible will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, or failing to provide a valid Social Security number.

On November 2, 2016, NYSOH redetermined your household's eligibility for financial assistance with health insurance. On November 3, 2016, NYSOH issued a disenrollment notice advising that your coverage in your oldest child's Medicaid Managed Care plan would be terminated as of November 30, 2016 because your oldest child had full benefit health insurance.

When NYSOH determines that a person has active coverage in a health insurance plan outside of NYSOH, that person is not eligible to enroll or remain enrolled in a Medicaid Managed Care plan.

You credibly testified that your oldest child's coverage under your spouse's employer-sponsored health insurance ended and submitted documentation from your spouse's employer-sponsored health insurance confirming that her coverage ended November 26, 2016.

However, when you updated your child's application on November 2, 2016, NYSOH properly cancelled her coverage in a Medicaid Managed Care plan due the fact that she still had active third party health insurance as of that date. Therefore, the November 3, 2016 eligibility redetermination and disenrollment notices were correct and must be **AFFIRMED**.

The remaining issue under review is whether NYSOH properly determined your oldest child ineligible for Medicaid, effective December 1, 2016.

The record indicates that your oldest child originally became eligible for Medicaid through NYSOH effective December 1, 2015. An eligibility redetermination notice issued on November 3, 2016 indicated that your oldest child was ineligible for Medicaid because her household income of \$32,000.00 was over the allowable limit \$31,047.00 and, instead, was eligible to purchase a qualified health plan at full cost, effective December 1, 2016.

The record reflects that you filed a federal income tax return for the 2016 tax year and claimed all three of your children as dependents. However, your application as of November 2, 2016 reflected that you only claimed two of your three children, even though all three children primarily reside with you. Therefore, NYSOH determined your oldest child's eligibility for Medicaid using a three-person household and an FPL of \$20,160.00, which at 154% equals \$31,047.00.

On your November 2, 2016 application, you attested to an expected household income of \$32,000.00. NYSOH relied upon your attested to income information in your application. The application also stated that your child is [REDACTED]

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size.

On the date of your November 2, 2016 application, 100% the relevant FPL was \$20,160.00 for a three-person household. Since \$32,000.00 is 158.73% of the 2016 FPL for a three-person household, NYSOH properly found your oldest child to be ineligible for Medicaid at the time of your November 2, 2016 application.

Therefore, the November 3, 2016 eligibility redetermination notice as to your oldest child's eligibility for Medicaid was correct when made.

However, following the hearing, the record was more fully developed and your household's modified adjusted gross income was calculated to be \$28,457.00, considering allowed deductions for educator expenses and tuition and fees, which deductions you expect will be comparable in 2017. That 2016 tax return also indicates that you claimed all three children as dependents on that tax return, which you also expect to be the same in 2017 and results in your eldest child having in a four-person household.

Since the record now more accurately reflects your 2017 modified adjusted gross income and your oldest child's November 26, 2016 termination date of third party health insurance, your case is RETURNED to NYSOH to redetermine her eligibility for financial assistance as of December 1, 2016, using a four-person

household and an annual income of \$28,457.00, for an individual residing in [REDACTED] [REDACTED], and to notify you accordingly.

NYSOH is further directed to assist you in enrolling your oldest child in an health plan in the appropriate insurance affordability program for which she is determined eligible.

Decision

The November 3, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

Your case is RETURNED to NYSOH to redetermine your oldest child's eligibility for financial assistance as of December 1, 2016, using a four-person household and an annual income of \$28,457.00, for an individual residing in [REDACTED] [REDACTED] and to notify you accordingly.

NYSOH is further directed to assist you in enrolling your oldest child prospectively in a health plan in the appropriate insurance affordability program for which she is determined eligible.

Effective Date of this Decision: April 05, 2017

How this Decision Affects Your Eligibility

Your case is being sent back to NYSOH to redetermine your oldest child's eligibility for financial assistance as of December 1, 2016, based on the household size and income adduced. NYSOH will notify you once this has been done.

NYSOH will also assist you in enrolling your eldest child prospectively in a health plan under the appropriate insurance affordability program

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 November 3, 2016 eligibility redetermination and disenrollment notices are **AFFIRMED**.

Your case is RETURNED to NYSOH to redetermine your oldest child's eligibility for financial assistance as of December 1, 2016, using a four-person household and an annual income of \$28,457.00, for an individual residing in [REDACTED] and to notify you accordingly.

NYSOH is further directed to assist you in enrolling your oldest child prospectively in a health plan in the appropriate insurance affordability program for which she is determined eligible.

Your case is being sent back to NYSOH to redetermine your oldest child's eligibility for financial assistance as of December 1, 2016, based on the

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household size and income adduced. NYSOH will notify you once this has been done.

NYSOH will also assist you in enrolling your eldest child prospectively in a health plan under the appropriate insurance affordability program

Legal Authority

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

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يُرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&etumi ama wo obi a okyerε kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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