



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

Notice of Decision

Decision Date: June 30, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000016174

[REDACTED]

Dear [REDACTED],

On May 31, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's February 24, 2017 eligibility determination 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.

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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000016174



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 children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until September 30, 2017?

Did NYSOH properly determine that your children were not eligible to enroll in Child Health Plus?

Procedural History

On August 17, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating in part that, effective October 1, 2016, your children remained eligible for Medicaid because your reported household income of \$13,140.00 was at or below the allowable income limit.

Also on August 17, 2016, NYSOH issued a plan enrollment notice confirming in part your eldest child's enrollment in a Medicaid Managed Care plan as of March 1, 2015, and your two other children's enrollment in Medicaid Fee-For-Service, because the type of Medicaid coverage they were eligible for does not require/allow them to enroll in a health plan.

Lastly, on August 17, 2016, NYSOH issued a disenrollment notice indicating that your youngest child's enrollment in a Medicaid Managed Care plan would end effective September 30, 2016. He would have coverage through Medicaid Fee-For-Service as of October 1, 2016.

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On December 12, 2016, you updated your NYSOH account and reported income of \$43,000.00 for yourself and \$26,919.82 for your spouse.

On December 13, 2016, NYSOH issued an eligibility determination notice stating in part that your three children were no longer eligible for Medicaid, but their Medicaid coverage would be continued until September 30, 2017, because certain individuals who qualified for Medicaid get coverage for 12 continuous months from the date they were last determined eligible. This eligibility was effective January 1, 2017.

Also on December 13, 2016, NYSOH issued a disenrollment notice indicating in part that your eldest child's coverage in his Medicaid Managed Care plan would end December 31, 2016. The corresponding plan enrollment notice indicated he would have coverage through Medicaid Fee-For-Service as of January 1, 2017.

On February 23, 2017, NYSOH received your updated application for health insurance with the increase in your household's income reported as on December 12, 2016. That day, a preliminary eligibility determination was prepared again finding your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until September 30, 2017.

Also on February 23, 2017, you spoke to NYSOH's Account Review Unit and appealed the preliminary determination insofar as your children's coverage was to continue in Medicaid Fee-For-Service and they were not eligible for Child Health Plus.

On February 24, 2017, NYSOH issued an eligibility determination notice, based on your February 23, 2017 application, stating that your children were no longer eligible for Medicaid. The notice further stated that their Medicaid coverage would continue until September 30, 2017, because certain individuals who qualified for Medicaid get coverage for 12 continuous months from the date they were last determined eligible. This eligibility was effective as of February 1, 2017.

On May 2, 2017, NYSOH issued a discontinuance notice stating that your children were no longer eligible for health insurance through NYSOH as of May 1, 2017, because you no longer wanted them to receive coverage.

On May 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:

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- 1) You expect to file your 2016 and 2017 federal income tax returns as married filing jointly and will claim three dependents (ages [REDACTED]) on that tax return.
- 2) You testified that you started new employment with a company in 2016 and that you and your family became eligible for employer-sponsored health insurance.
- 3) According to your NYSOH account and your testimony, in the December 12, 2016 and February 23, 2017 updated applications, you attested to an expected annual household income of approximately \$70,000.00. You testified that, at the time you submitted your application, this income was an accurate reflection of your and your spouse's expected income for the 2016 and 2017 tax years.
- 4) According to your NYSOH account, your children were found eligible for Medicaid Fee-For-Service effective October 1, 2016, and were not eligible for a Medicaid Managed Care Plan at that time.
- 5) You testified that your children are presently enrolled in an employer-sponsored insurance (ESI) health plan.
- 6) You testified that you want your children to be considered for Child Health Plus instead of having coverage in the ESI health plan because of the premium cost, higher deductible, and out-of-pocket costs of the ESI plan.
- 7) According to your NYSOH account and your testimony, on May 1, 2017, you updated your application and indicated that your children no longer needed health insurance through NYSOH.

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

Medicaid Continuous Coverage

Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even when the household's income increases above eligibility levels during that period (N.Y. Soc. Serv. Law §366(4)(b)(3)(i)).

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 Soc. Serv. Law §366(4)(c)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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 Child Health Plus with subsidy payments, a child must not be “eligible for medical assistance,” that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f); 45 CFR § 155.305(f)(1)(B)).

Legal Analysis

Initially, it is noted that on August 17, 2016, your [REDACTED] children between the ages of [REDACTED] were determined eligible for Medicaid as of October 1, 2016. That fact is not in dispute.

The issue under review is whether NYSOH properly determined that your children were no longer eligible for Medicaid as of your updated applications on December 12, 2016 and February 23, 2017, but would continue to receive Medicaid coverage until September 30, 2017.

On your December 12, 2016 and February 23, 2017 applications, you attested to an increase in your household income because you started a new job. On both dates, NYSOH relied on that information.

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. The family size in this case is a five-person household based on your tax filing status of married filing jointly with three dependents.

Since your reported household income of approximately \$70,000.00 is 246.13% of the 2016 FPL of \$28,440.00 for a five-person household and 243.22% of the 2017 FPL of \$28,780.00 for a five-person household, NYSOH properly found that, as of your December 12, 2016 and February 23, 2017 updated applications, your children were no longer eligible for Medicaid on an expected annual income basis.

Generally, under New York State law, once children are eligible for Medicaid, that eligibility continues for 12 months even when the household income rises above the applicable FPL. This provision is called "continuous coverage." Therefore, NYSOH properly continued your children's Medicaid coverage until the end of the 12-month period that began on October 1, 2016. In your children's case that is until September 30, 2017. Therefore, the December 13, 2016 and February 24, 2017 eligibility determination notices to this effect were correct and are **AFFIRMED**.

According to your NYSOH account and your testimony, your children were eligible for ESI coverage and you enrolled them in your employer-sponsored plan as of May 1, 2017. You updated your NYSOH account that day and indicated your children no longer needed health insurance through NYSOH. In response to your request to discontinue your children's Medicaid coverage, NYSOH issued a discontinuance notice stating your children were no longer eligible for Medicaid as of May 2, 2017.

You also testified that you want your children to now be considered eligible for Child Health Plus because it would be more affordable insurance than what is offered through your employer.

First, you taking your children out of Medicaid continuous coverage voluntarily does not change their eligibility for Medicaid under the continuous coverage policy. Children who have access to or are enrolled in Medicaid are deemed to be eligible for medical assistance and do not qualify for Child Health Plus. Therefore, your children do not qualify for Child Health Plus because they remain eligible for medical assistance through Medicaid until September 30, 2017.

Second, related individuals to the employee, who are eligible to enroll in an ESI health plan that is affordable and provides minimum value, are not eligible to enroll in Child Health Plus through NYSOH.

You testified that your children are presently enrolled in an ESI health plan, but that it is unaffordable. To be considered for Child Health Plus, the ESI health plan must not be affordable and must not provide minimum value. Even if the ESI health plan were unaffordable and did not provide minimum value, your children are not eligible for Child Health Plus because they remain eligible for Medicaid until September 30, 2017. Therefore, your children's eligibility for Child Health Plus on the basis that their ESI health plan coverage is unaffordable cannot be reached.

Decision

The December 13, 2016 and February 24, 2017 eligibility determination notices are AFFIRMED.

Your children do not qualify for Child Health Plus because they are currently eligible for medical assistance through Medicaid until September 30, 2017.

Effective Date of this Decision: June 30, 2017

How this Decision Affects Your Eligibility

Your children's Medicaid Fee-For-Service coverage, which began on October 1, 2016, ended as of May 1, 2017 at your request, but their eligibility for Medicaid continues until September 30, 2017.

Your children are not currently eligible for Child Health Plus coverage because they remain eligible for Medicaid until September 30, 2017.

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.

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).

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 December 13, 2016 and February 24, 2017 eligibility determination notices are AFFIRMED.

Your children do not qualify for Child Health Plus because they are currently eligible for medical assistance through Medicaid until September 30, 2017.

Your children's Medicaid Fee-For-Service coverage, which began on October 1, 2016, ended as of May 1, 2017 at your request, but their eligibility for Medicaid continues until September 30, 2017.

Your children are not currently eligible for Child Health Plus coverage because they remain eligible for Medicaid until September 30, 2017.

Legal Authority

We are sending you this notice in accordance with 45 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).

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。我们可以为您免费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)

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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।

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&btumi ama wo obi a okyer& 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 איר געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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