



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

Notice of Decision

Decision Date: June 28, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000016705

[REDACTED]

Dear [REDACTED],

On June 15, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 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 at the top of this notice.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 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).

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Decision

Decision Date: June 28, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000016705

[REDACTED]

Issue

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

Did NYSOH properly determine that your newborn child was eligible for Medicaid, effective February 1, 2017?

Procedural History

On January 6, 2017, NYSOH received your 2015 tax return, reflecting your household's adjusted gross income of \$68,084.00.

Also on January 6, 2017, NYSOH received an update to your application in which you indicated that you were pregnant with one child.

On January 7, 2017, NYSOH issued an eligibility determination notice based on the information contained in the January 6, 2017 application update, stating that you were conditionally eligible for Medicaid, effective January 1, 2017. To confirm your eligibility, you were requested to provide proof of your income by January 21, 2017.

On January 17, 2017, NYSOH received a further update to your application for health insurance.

On January 18, 2017, NYSOH issued an eligibility redetermination notice stating that you were no longer eligible for Medicaid, effective January 31, 2017.

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On March 7, 2017, NYSOH received your initial application for health insurance that included your newborn child.

On March 8, 2017, NYSOH issued an eligibility determination notice stating that your newborn child was eligible for Medicaid, effective February 1, 2017. The notice stated that this was because “your household income of \$70,004.04 is at or below the allowable income limit of \$64,180.00.”

Also on March 8, 2017, NYSOH issued an enrollment notice confirming your selection of a Medicaid Managed Care (MMC) plan for your newborn child’s coverage as of March 7, 2017. The notice stated that her MMC plan coverage would begin effective April 1, 2017.

Finally, on March 8, 2017, you spoke to NYSOH’s Account Review Unit and appealed that determination insofar as your child was eligible for Medicaid, and not eligible for Child Health Plus (CHP).

On May 12, 2017 and May 22, 2017, NYSOH received your 2016 tax return, reflecting your household’s adjusted gross income of \$58,012.00.

On June 15, 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 were found conditionally eligible for Medicaid, effective January 1, 2017.
- 2) Your Medicaid Fee-For-Service coverage ended effective January 31, 2017, upon having subsequently been found eligible for tax credits to purchase a health plan.
- 3) You testified that you expected to file your 2017 tax return with a tax filing status of married filing jointly. You will claim your three children as dependents on that tax return.
- 4) The application that was submitted on March 7, 2017 listed annual household income of \$82,005.12, consisting of approximately \$6,833.76 per month your spouse receives in income from his business, [REDACTED]. The application also reflected that your spouse anticipated taking a \$12,000.00 deduction from self-employment health insurance. You testified that these amounts were correct.

- 5) Your newborn child was born on [REDACTED].
- 6) At the time of March 7, 2017 application, your newborn child was less than [REDACTED].
- 7) You live in Nassau County, New York.
- 8) You testified that you would like your child to be eligible for CHP, and not Medicaid, since your two other children are enrolled in CHP. You also testified that this has created problem with finding providers who accept your youngest child's Medicaid plan, and taking your children to two sets of doctors for their coverage.

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 under one year of age 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 223% 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 2017 FPL, which was \$28,780.00 for a five-person household (82 Federal Register 8831).

Newborn Child – Effective Date of Coverage for Medicaid

NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. This provision applies in instances where the labor

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and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility (42 CFR § 435.117(a); NY Social Services Law § 366-g(3)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (CHP) 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 CHP 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)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your newborn child was eligible for Medicaid, effective February 1, 2017.

According to your application, and your testimony, you expect to file a joint federal income tax return for the 2017 tax year and claim your three children as dependents. Therefore, your newborn child is in a five-person household.

On your March 7, 2017 application, you attested to an expected household income of \$70,004.04, which consisted of (1) \$82,005.12 (\$6,833.76 x 12 months) in income your spouse receives from his business, [REDACTED] and (2) an anticipated \$12,000.00 deduction for self-employment health insurance. The application also stated that your child is less than one year old. NYSOH relied upon this information in issuing its determination.

Medicaid can be provided through NYSOH to children under the age of who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Since \$70,004.04 is 243.24% of the 2017 FPL for a five-person household, NYSOH improperly found your child eligible for Medicaid.

Furthermore, while you were found conditionally eligible for Medicaid, effective January 1, 2017, your coverage for this program ended as of January 31, 2017, prior to the birth of your newborn child. As a result, your newborn is not eligible for Medicaid on the basis of you having been found conditionally eligible for Medicaid prior to her birth.

Accordingly, the March 8, 2017 eligibility determination notice stating that your youngest child was eligible for Medicaid was made in error, and is **RESCINDED**.

Furthermore, all subsequent eligibility determinations notices issued finding your newborn child eligible for Medicaid based on continuous coverage guidelines, including the May 6, 2017 eligibility determination notice, are also RESCINDED since they are no longer supported by now developed record.

Your case is RETURNED to redetermine your newborn child's eligibility based on a five-person household with an anticipated annual income of \$70,004.04 in Queens County.

Decision

The March 8, 2017 eligibility determination notice is RESCINDED.

All subsequent eligibility determinations notices issued finding your newborn child eligible for Medicaid based on continuous coverage guidelines, including the May 6, 2017 eligibility determination notice, are also RESCINDED since they are no longer supported by now developed record.

Your case is RETURNED to redetermine your newborn child's eligibility as of March 7, 2017, based on a five-person household with an anticipated annual income of \$70,004.04 in Queens County, New York.

Effective Date of this Decision: June 28, 2017

How this Decision Affects Your Eligibility

You will receive a new eligibility determination notice shortly reflecting your newborn child's eligibility as of March 7, 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace 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

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appealed to the Federal Marketplace. 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 have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

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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- By mail at:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The March 8, 2017 eligibility determination notice is RESCINDED.

All subsequent eligibility determinations notices issued finding your newborn child eligible for Medicaid based on continuous coverage guidelines, including the May 6, 2017 eligibility determination notice, are also RESCINDED since they are no longer supported by now developed record.

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).

Your case is RETURNED to redetermine your newborn child's eligibility as of March 7, 2017, based on a five-person household with an anticipated annual income of \$70,004.04 in Queens County, New York.

You will receive a new eligibility determination notice shortly reflecting your newborn child's eligibility as of March 7, 2017.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 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 مجانًا.

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 okyerE 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 דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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