



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

Notice of Decision

Decision Date: July 27, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017206

[REDACTED]

Dear [REDACTED]

On June 28, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's January 23, 2017 and March 24, 2017 eligibility determination 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).

This page intentionally left blank.

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

Decision

Decision Date: July 27, 2017

NY State of Health Account ID [REDACTED]
Appeal Identification Number: AP000000017206

[REDACTED]

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 newborn child was eligible for Medicaid effective January 1, 2017?

Did NY State of Health properly determine that your newborn child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2017?

Procedural History

On January 24, 2017, NY State of Health (NYSOH) issued an eligibility determination notice stating that your newborn child (child) was eligible for Medicaid because your household income of \$0.00 was at or below the allowable income limit. This eligibility was effective as of January 1, 2017.

Also on January 24, 2017, NYSOH issued a plan enrollment notice stating in part that your child was enrolled in a Medicaid Managed Care plan with Empire Blue Cross Blue Shield (BCBS) as of January 1, 2017.

On March 23, 2017, NYSOH received your updated application for health insurance; specifically, the income information was updated.

On March 24, 2017, NYSOH issued an eligibility determination notice stating that your child was no longer eligible for Medicaid. However, [REDACTED] Medicaid coverage would continue until December 31, 2017, because certain individuals determined

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).

eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of March 1, 2017.

Also on March 23, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your child's enrollment in Medicaid had been continued.

On June 28, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open to July 14, 2017 for you to submit supporting documents.

On June 28, 2017, you submitted a copy of your March 9, 2017 and your June 29, 2017 paystubs. These documents were made part of the record as "Appellant's [REDACTED]." As of July 14, 2017, no further documentation was received and the record closed that day.

Findings of Fact

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

- 1) According to your NYSOH, you were determined eligible for Medicaid as of May 1, 2016, and were enrolled in a Medicaid Managed Care plan with Empire BCBS as of June 1, 2016 through January 31, 2017.
- 2) According to your NYSOH account, your child was born on [REDACTED].
- 3) You testified that you are seeking Child Health Plus for your child because your pediatrician does not accept Medicaid Managed Care as a form of payment. You also have medical bills from January 2017 that you had to pay out of pocket.
- 4) You testified that when you called and spoke to NYSOH, you never applied for health insurance for your child. You further testified that this is similar to when a credit card company calls you and you give them all your information and all the sudden you realize you are approved for a credit card, but didn't realize you were applying.
- 5) A review of the telephone call recording, dated January 10, 2017, between you and a NYSOH Call Center representative shows that you called NYSOH to enroll your child in health coverage. On that day, you began your application and answered eligibility questions, but the NYSOH representative stopped mid-application and stated that you needed your child's Social Security number before you could proceed

any further with the application. To which you responded, "Will that complete my application?"

- 6) A review of the telephone call recording, dated January 23, 2017, between you and a NYSOH Call Center representative shows that you called to enroll your child in Child Health Plus. On that day, you answered all the same eligibility questions you answered on January 10, 2017. Then you gave the NYSOH representative your child's Social Security number and completed the rest of the application.
- 7) A further review of the telephone call recording, dated January 23, 2017, shows that the NYSOH representative stated, "Do you want to use your projected yearly income or your monthly income to see if you qualify for Medicaid." To which you responded, "I don't need insurance. This is only for my child." Then the NYSOH representative responded that she would only apply on behalf of your child and that she would utilize your monthly income. You did not respond.
- 8) You testified that you never requested that your child be enrolled in a Medicaid Managed Care plan. A review of the telephone record shows that your child was automatically enrolled in your Medicaid Managed Care Plan because when ■ was born you were receiving medical assistance.
- 9) A further review of the telephone call recording, dated January 23, 2017, shows that you were aware that your child was enrolled in your Medicaid Managed Care plan at birth.
- 10) According to your NYSOH account and your testimony, you expect to file your 2017 federal income tax return as head of household and claim one dependent on that tax return.
- 11) According to the January 23, 2017 application, you attested to a monthly household income of \$0.00. You testified, and submitted documentation, that you stopped working on December 15, 2016 and received no income in the month of January 2017. You went back to work in February 2017.
- 12) According to the January 23, 2017 application, you attested to an expected annual household income of \$25,000.00. You testified that, at the time you submitted your application, this income was not an accurate reflection of your expected income for the 2017 tax year. You believe your gross annual household income will be approximately \$42,000.00 in 2017.

- 13) On June 28, 2017, you submitted a copy of your June 29, 2017 paystub, which shows that as of June 29, 2017, you earned a year to date gross household income of \$36,060.00.
- 14) According to the March 23, 2017 application, you attested to an increased expected household income of \$40,000.00.

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

Applicable Law and Regulations

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).

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. Infants born to women during their mother's period of guaranteed Medicaid eligibility are automatically eligible for and enrolled in the same Medicaid Managed Care plan as their mother (42 CFR § 435.116; SSA § 1902(a)(10); SSA § 1905(n); NY Social Services Law § 366(4)(b)) .

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

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).

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 at 100% is \$16,240.00 for a two-person household (81 Fed. Reg. 8831).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Generally, most children 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

Initially it is noted that you were determined eligible for Medicaid as of May 1, 2016, and were enrolled in a Medicaid Managed Care plan with Empire BCBS as of June 1, 2016 through January 31, 2017. Your child was born on [REDACTED]

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

You testified that you never applied for health coverage for your child. You contend that your child being found eligible for Medicaid purportedly without your input is similar to a stranger from a credit card company calling your home and

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).

asking for personal financial information, resulting in you are suddenly approved for a credit card.

However, the record reflects that you called NYSOH on January 10, 2017, provided your personal and income information, and asked the NYSOH representative who was assisting you if your child's "application would be completed when [you] called back." A review of the telephone call recording, dated January 23, 2017, between you and a NYSOH representative shows that you called to enroll your child in Child Health Plus. On that day, you answered all the same eligibility questions you answered on January 10, 2017. Then you gave the NYSOH representative your child's Social Security number and completed the rest of the application. Therefore, a review of the telephone records supports that you began your application for your child on January 10, 2017 and completed that application on January 23, 2017.

Newborn children who are born to a woman who is Medicaid eligible at the time of birth, are automatically eligible for Medicaid at birth and will be enrolled in the same Medicaid Managed Care plan as their mother as of the first day of the month of birth.

According to your NYSOH account, you gave birth to your newborn on [REDACTED]

Since you were eligible for Medicaid in January 2017 and enrolled in an Empire BCBS Medicaid Managed Care plan, your child was automatically eligible for Medicaid as of [REDACTED] date of birth and was enrolled in the same Medicaid Managed Care plan as of the first day of [REDACTED] birth month; that is, as of January 1, 2017.

Therefore, the January 24, 2017 eligibility determination properly stated that your child was eligible for Medicaid and it is AFFIRMED.

Also, the January 24, 2017 plan enrollment notice that in part stated your child was enrolled in a Medicaid Managed Care plan with Empire BCBS as of January 1, 2017 is correct and is AFFIRMED.

The second issue is whether NYSOH properly determined that your child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2017.

You testified that at the time of your January 23, 2017 application, you were not receiving income from your employment. You updated your application on March 23, 2016, to include the income you will be receiving from your employment. This update increased your annual household income to \$40,000.00, which is above the Medicaid limit.

Under New York State law, once a child is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 223% of the FPL. This provision is called “continuous coverage.”

The credible evidence of record confirms that your child was eligible for Medicaid effective January 1, 2017 and that, even though your estimated annual income increased when you modified your application on March 23, 2017, your child remained enrolled in Medicaid for the remainder of ■■■ 12-month eligibility period.

Therefore, the March 23, 2017 eligibility determination notice is correct and is AFFIRMED.

Decision

The January 24, 2017 eligibility determination and plan enrollment notices are AFFIRMED.

The March 23, 2017 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: July 27, 2017

How this Decision Affects Your Eligibility

Your child’s Medicaid coverage, which began on January 1, 2017, continues until December 31, 2017, barring subsequent changes to your child’s eligibility.

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 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 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).

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):

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 January 24, 2017 eligibility determination and plan enrollment notices are **AFFIRMED**.

The March 23, 2017 eligibility determination notice is **AFFIRMED**.

Your child's Medicaid coverage, which began on January 1, 2017, continues until December 31, 2017, barring subsequent changes to your child's eligibility.

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 مجانًا.

বাংলা (Bengali)

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).

0000 00 0000000000000000 00000 000 000000 000000 000 0000000000 0000000000 00 000000,
00000000 0000 1-855-355-5777 00000000 00 000000 00000 00 00000000 0000 00000 000000000000 00000
00000000 00000 00000000 00000 000000

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.

שׂוֹדִישׁ (Yiddish)

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).

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.

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).