



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

Notice of Decision

Decision Date: September 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017694

[REDACTED]

Dear [REDACTED],

On August 3, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 27, 2017 verbal denial of Medicaid premium assistance for your child.

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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DEPARTMENT OF HEALTH
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Decision

Decision Date: September 5, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000017694

[REDACTED]

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 child was not eligible for Medicaid premium assistance as of February 1, 2017?

Procedural History

On October 27, 2016, you added your child to your NYSOH account.

On October 28, 2016, NYSOH issued an eligibility determination notice stating that your child was conditionally eligible for Medicaid, effective October 1, 2016. Your child's eligibility was conditioned on you providing proof of Third Party Health Insurance by November 11, 2016.

On November 8, 2016, you uploaded proof of your employer sponsored coverage which showed that your child had coverage as of October 25, 2016.

On November 15, 2016, NYSOH issued a notice stating that the type of Medicaid coverage your child has does not require/allow him to enroll into a health plan.

On November 23, 2016, a complaint was filed on your behalf [REDACTED] to review the documentation you submitted on November 8, 2016 which included the front and back of your third party health insurance cards, plan summary, and proof of premium amount.

On November 24, 2016, NYSOH issued an eligibility determination notice stating that your child remains eligible for Medicaid, effective October 1, 2016.

On December 1, 2016, a note was added to your complaint [REDACTED] that stated a cost-effectiveness analysis was done on your submitted documentation on November 30, 2016.

Also on December 1, 2016, NYSOH issued a notice stating that NYSOH had determined that it was cost-effective to pay for your child's health insurance premiums effective January 1, 2017.

On February 16, 2017, you uploaded a letter to your NYSOH account stating that your child was no longer enrolled in health insurance through your employer as of January 31, 2017.

On February 21, 2017, NYSOH issued an eligibility determination notice stating that your child remains eligible for Medicaid, effective October 1, 2016. The notice also advised you to pick a health plan for your child.

Also on February 21, 2017, NYSOH issued a notice advising that action was required for your child's enrollment and that you needed to pick a health plan for him.

On March 8, 2017, you uploaded proof your child's enrollment in health insurance coverage through his father's insurance plan. The effective date of this coverage was February 1, 2017.

On March 9, 2017 NYSOH issued an eligibility determination notice stating that your child remained eligible for Medicaid, effective October 1, 2016. The notice stated that the type of Medicaid coverage your child is eligible for does not require or allow him to enroll in a health plan.

On March 24, 2017, you contacted NYSOH and filed a complaint [REDACTED] in which you were requesting Medicaid reimbursement for employer sponsored insurance coverage effective February 1, 2017 for your child. This request was based on the documentation you had provided on March 8, 2017.

On March 27, 2017, a note was added to your complaint [REDACTED] that stated your child was not eligible for premium reimbursement due to absent parent (the policy holder does not reside in the household).

On April 4, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of the denial of Medicaid premium assistance for your child as of February 1, 2017.

On July 27, 2017, you were scheduled to have a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. That day, your hearing was adjourned at the request of the Hearing Officer.

On August 3, 2017, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you waived your right to formal notice. The record was developed during the hearing and left open until August 11, 2017 to allow you time to submit copies of your child's father's paystubs.

Also on August 3, 2017, your child's father's paystubs were uploaded to your NYSOH account. The paystubs were incorporated into the record as Appellant's Exhibit #1. The record remained open until August 11, 2017 and is now closed.

Findings of Fact

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

- 1) On October 25, 2016, your child became enrolled in your employer sponsored insurance plan.
- 2) On October 27, 2016, your child was added to your NYSOH account. The application that was submitted that day stated that you had a tax filing status of single and would claim your child as a dependent. You attested to an annual household income of \$25,060.40.
- 3) Your child was found eligible for Medicaid as of October 1, 2016.
- 4) On December 1, 2016, your child was granted Medicaid premium assistance because it was cost-effective for NYSOH to pay the premiums for your employer sponsored insurance plan.
- 5) On January 31, 2017, your child was disenrolled from your employer sponsored insurance plan.
- 6) On February 1, 2017, your child became enrolled in his father's employer sponsored insurance plan.
- 7) You testified that at the time your child's insurance started through his father's employer, your child's father did not live with you and your child.
- 8) On February 15, 2017, your account was updated to indicate that you do not plan on filing taxes or claiming your child as a dependent, and that you have an expected annual household income of \$0.00. Your

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child's information was updated to indicate that he was going to be claimed by his father as a dependent, and that his father had an expected yearly income of \$0.00.

- 9) On March 24, 2017, NYSOH created a complaint on your behalf to determine if it was cost-effective for NYSOH to pay the premiums for your child's enrollment in his father's employer sponsored insurance plan.
- 10) On March 27, 2017, complaint [REDACTED] was updated to indicate that your child was not eligible for premium reimbursement due to absent parent.
- 11) You testified that you were told verbally over the phone that your child had been denied reimbursement because of absent parent and that you are appealing that determination.
- 12) The record does not contain a written determination notice on whether or not your child was eligible for Medicaid premium reimbursement as of February 1, 2017.
- 13) You testified that your child's father moved into your home with you and your child at the beginning of June 2017.
- 14) On June 22, 2017 you added your child's father to your NYSOH account. The application that was submitted that day indicates that your child's father would be filing taxes as Head of Household and claiming you and your child as dependents. The application stated that your expected yearly income is \$0.00 and your child's father expected yearly income is \$39,570.00. You testified that this information is correct.

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

Applicable Law and Regulations

De Novo Review

NYSOH Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "De novo review means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

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).

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 is \$16,020.00 for a two-person household and \$24,300.00 for a four-person household (81 Fed. Reg. 4036).

Legally Responsible Adults (Absent Parent)

A legally responsible relative living apart from a Medicaid applicant, will be asked to contribute a portion of their income and resources to the Medicaid applicant if financially able to (18 NYCRR § 360-4.3(f)(ii); NY SSL § 101). A parent of a child under the age of 21 is considered a legally responsible adult for the purposes of determining Medicaid eligibility (18 NYCRR § 360-1.4(h)). Only the amount that the legally responsible relative contributes to the Medicaid applicant will be considered available when determining the applicant's eligibility (18 NYCRR § 360-4.3(f)(ii)).

Medicaid Premium Reimbursement

The state or local agency administering Medicaid programs must take all reasonable measures to ascertain the legal liability of third parties (Social Security Act § 1902(a)(25); 42 USC. § 1396(a)). Third parties include health insurers, self-insured plans, group health plans, service benefit plans, managed care plans, etc., that are legally responsible for payment of a claim for a health care item or service (42 USC. § 1396(a)).

The Medicaid assistance program will pay the health insurance premiums for personal health insurance covering care and other medical benefits which are authorized under the Medicaid program for cost-effective, employer-sponsored group health insurance benefits. Such premiums can also be paid for the benefit of the recipient's spouse and dependent children (18 NYCRR §360-7.5(g)(1).

The cost-benefit analysis for premiums that is to be relied upon by NY State of Health is performed by the Department of Health's Third Party Resource Unit (13 ADM 03 [Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010], Section III, Subsection I). The unit performs this analysis using a programmed calculator known as HIPP calculator (GIS 13 MA/012 (May 1, 2013)).

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Legal Analysis

The issue under review is whether NYSOH properly determined that your child was not eligible for Medicaid premium assistance as of February 1, 2017.

You testified that you were told verbally over the phone that your child had been denied reimbursement because of absent parent and that you are appealing that determination. However, the record does not contain a written determination notice on whether or not your child was eligible for Medicaid premium assistance as of February 1, 2017.

Here, the lack of a notice of eligibility determination on the issue of denial of premium assistance does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. The Appeals Unit is required to review each appeal de novo and consider all relevant facts and evidence. On March 27, 2017, complaint [REDACTED] was updated to indicate that your child was not eligible for premium reimbursement due to absent parent. That complaint, along with your testimony supports that your child was denied Medicaid premium assistance.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to the eligibility determination notice had it been issued.

Your child was found eligible for Medicaid as of October 1, 2016.

On March 8, 2017, you uploaded proof of your child's enrollment in health insurance coverage through his father's employer sponsored insurance plan. The effective date of your child's coverage under his father's plan was February 1, 2017. On March 24, 2017, you contacted NYSOH and requested Medicaid premium assistance for his father's insurance plan on behalf of your child.

The Medicaid assistance program will pay the health insurance premiums for a dependent in receipt of employer sponsored health insurance through a parent, if it is determined to be cost-effective.

On March 27, 2017, your child was verbally denied Medicaid premium assistance because of absent parent requirements.

At the time of your March 24, 2017 request, your child's information in your NYSOH account indicated that he was going to be claimed by his father as a dependent, and that his father had an expected yearly income of \$0.00. Your child's father was not listed as residing in the household.

Based on your testimony and the information now contained in your NYSOH account, the information that was entered into your application at the time of your March 24, 2017 request was not accurate. In particular, the fact that your child's father had no income. You testified, and provided documentation, that your child's father's expected yearly income is \$39,570.00.

A parent of a child under the age of 21, if living apart from the child, will be asked to contribute a portion of their income and resources to the Medicaid applicant if financially able to.

Therefore, your child's father would have been considered a legally responsible adult, and may have been required to contribute towards your child.

Since you did not provide the accurate information necessary to make a proper determination on your child's eligibility for Medicaid premium assistance as of your March 24, 2017 request, NYSOH's March 27, 2017 verbal denial of Medicaid premium assistance for your child is AFFIRMED.

However, you testified that your child's father has resided in the household with you and your child since June 1, 2017. On June 22, 2017, you added your child's father to your NYSOH account and updated his income information. Therefore, your application now contains sufficient information to make a determination on your child's eligibility for premium assistance as of June 1, 2017. Your case is RETURNED to NYSOH's Third Party Liabilities Unit to determine whether or not your child was eligible for Medicaid premium assistance as of June 1, 2017. NYSOH is directed to refer to the documents you uploaded to your NYSOH account on March 8, 2017 and August 3, 2017 in making its determination.

Decision

NYSOH's March 27, 2017 verbal denial of Medicaid premium assistance for your child is AFFIRMED.

Your case is RETURNED to NYSOH's Third Party Liabilities Unit to determine whether or not your child was eligible for Medicaid premium assistance as of June 1, 2017. NYSOH is directed to refer to the documents you uploaded to your NYSOH account on March 8, 2017 and August 3, 2017 in making its determination.

Effective Date of this Decision: September 5, 2017

How this Decision Affects Your Eligibility

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).

NYSOH properly determined that your child was not eligible for Medicaid premium assistance as of February 1, 2017 because you did not provide all of the necessary information for your child's father.

Your case is being sent back to NYSOH to redetermine your child's eligibility for Medicaid premium assistance as of June 1, 2017 based on the updated information you provided.

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 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 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 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

NYSOH's March 27, 2017 verbal denial of Medicaid premium assistance for your child is AFFIRMED.

NYSOH properly determined that your child was not eligible for Medicaid premium assistance as of February 1, 2017 because you did not provide all of the necessary information for your child's father.

Your case is RETURNED to NYSOH's Third Party Liabilities Unit to determine whether or not your child was eligible for Medicaid premium assistance as of June 1, 2017. NYSOH is directed to refer to the documents you uploaded to your NYSOH account on March 8, 2017 and August 3, 2017 in making its determination.

Legal Authority

We are sending you this notice 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&etumi 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 אייך געבן א דאלמענטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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