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

Notice of Decision

Decision Date: August 23, 2017

NY State of Health Account ID [redacted]
Appeal Identification Number: AP000000018810

[redacted]

Dear [redacted],

On August 15, 2017, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health's March 24, 2017 eligibility determination.

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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: August 24, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000018810

[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 you were eligible for up to $150.00 per month in advanced premium tax credits, and cost-sharing reductions if you enrolled into a silver level qualified health plan, effective May 1, 2017?
>
> Did NY State of Health properly determine that your child was eligible for a Child Health Plus plan with a $15.00 monthly premium, effective May 1, 2017?

Procedural History

On February 22, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. Also on this date, you uploaded one document to your NYSOH account.

On February 23, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for the Essential Plan with a $20.00 monthly premium, effective April 1, 2017.

Also on February 23, 2017, NYSOH issued a notice stating that the income information that you entered into your application did not match what NYSOH received from federal and state data sources. This notice stating that more income information was needed to confirm your newborn child's eligibility by

March 9, 2017, and proof of her citizenship status and social security number was due by May 23, 2017.

On March 3, 2017, NYSOH validated the income documentation you uploaded on February 22, 2017, and a new application was submitted on your behalf.

On March 4, 2017, NYSOH issued a notice of eligibility determination stating that you and your spouse were eligible for Medicaid, and your newborn child was conditionally eligible for Medicaid because your household income was at or below the allowable income limit. Your spouse and your newborn child's eligibility was effective as of March 1, 2017, and your eligibility was effective April 1, 2017. This notice further directed you to submit proof of your newborn child's social security number by May 23, 2017.

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

On March 24, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for up to $150.00 per month in advanced premium tax credits (APTC), and that your child was eligible for a Child Health Plus plan with a $15.00 monthly premium, effective May 1, 2017. This notice also stated that your spouse was no longer eligible for Medicaid, but that NYSOH would continue his coverage until February 28, 2018.

On May 9, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your and your child's enrollment in Medicaid had not been continued.

On August 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 testified that you are only appealing your and your newborn child's eligibility.

2) Your application states that you expect to file your 2017 federal income tax return as married filing jointly, and will claim one dependent on that tax return.

3) You testified that you were pregnant with one child, and gave birth to that child on [redacted].

4) According to your NYSOH account, your newborn child was added to your account on February 22, 2017.

5) According to your February 22, 2017 application, you attested to an expected annual household income of $39,600.00.

6) Also on February 22, 2017, you uploaded your 2015 joint tax return to your NYSOH account.

7) On March 3, 2017, NYSOH validated your income documentation and updated your income from $39,600.00 to $28,117.00.

8) According to the March 23, 2017 application, you attested to an increased expected annual household income of $48,000.00.

9) Your spouse testified that he owns his own business; therefore, it is difficult to calculate how much he is expected to make.

10) You testified that you do [redacted] and after having your child you are unable to work as much as you have in the past.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid can be provided through NYSOH 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 federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); NY Social Services Law § 366(1)(b)).

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).

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 is $20,420.00 for a three -person household (82 Fed. Reg. 8831).

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 State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

Medicaid- Start Dates

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)).

Medicaid- Continuous Coverage

Generally, most applicants 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)).

Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (*see* New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for 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) (NY 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 PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from $9.00 per month to $60.00 per month (NY PHL § 2510(9)(d)).

The CHP premium is $15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than $54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

Legal Analysis

The first issue under review is whether NYSOH properly determined you were eligible for up to $150.00 per month in advanced premium tax credits, and cost-sharing reductions if you enrolled into a silver level qualified health plan, effective May 1, 2017.

On March 3, 2017, NYSOH submitted an updated application on your behalf, which stated that your expected annual household income was $28,117.00. Subsequently, on March 4, 2017, NYSOH issued an eligibility determination stating, in part, that you were eligible for Medicaid, effective April 1, 2017. This eligibility determination is not under appeal.

However, 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.

Therefore, you should have been found eligible for fee-for-service Medicaid effective March 1, 2017 and the March 4, 2017 eligibility determination is MODIFIED to reflect that you were eligible for Medicaid, effective March 1, 2017 and not April 1, 2017.

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).

Generally, once individuals are determined fully eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage, even if the applicant loses Medicaid eligibility because of any changes or updates they made to their NYSOH account. This twelve-month period is based on the effective date of the Medicaid eligibility determination.

The record reflects that a second application was submitted to NYSOH on March 23, 2017, and your household income was changed from $28,117.00 to $48,000.00. Subsequently, NYSOH found you ineligible for Medicaid effective April 30, 2017.

Once a person is eligible for full Medicaid, the eligibility continues for 12 months even if the household income rises above 138% of the FPL for an adult. When your Medicaid coverage terminated on April 30, 2017, the twelve-month period of your Medicaid eligibility, had not expired.

Therefore, the March 24, 2017 eligibility determination is RESCINDED, in part, as it pertains to your eligibility. Since you should have been Medicaid eligible as of March 1, 2017, your Medicaid eligibility should continue until February 28, 2018.

The second issue is whether NYSOH properly determined that your child was eligible for a Child Health Plus plan with a $15.00 monthly premium, effective May 1, 2017.

On March 3, 2017, NYSOH submitted an updated application on your behalf, which stated that your expected annual household income was $28,117.00. Subsequently, on March 4, 2017, NYSOH issued an eligibility determination stating, in part, that your newborn child was conditionally eligible for Medicaid, effective March 1, 2017. This notice further directed you to submit proof of your child's social security number by May 23, 2017 in order to confirm that your newborn child was fully eligible for Medicaid.

Generally, once individuals are determined fully eligible for Medicaid, they are guaranteed 12 months of Medicaid coverage, even if the applicant loses Medicaid eligibility because of any changes or updates they made to their NYSOH account. This twelve-month period is based on the effective date of the Medicaid eligibility determination.

However, on March 3, 2017, your newborn child was only found conditionally eligible for Medicaid, and as such does not get the benefit of continuous Medicaid coverage for 12 months.

The record reflects that a second application was submitted to NYSOH on March 23, 2017, and your household income was changed from $28,117.00 to $48,000.00.

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 child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Households with an income between 223% and 250% of the FPL are responsible for a $15.00 per month Child Health Plus premium payment. Since $48,000.00 is 238.10% of the 2016 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a $15.00 per month premium payment.

Therefore, the March 24, 2017 eligibility determination is AFFIRMED, in part, as it pertains to your newborn child's eligibility since it found him eligible for Child Health Plus and not continuous Medicaid eligibility.

Decision

The March 4, 2017 eligibility determination is MODIFIED to reflect that you were eligible for Medicaid, effective March 1, 2017.

The March 24, 2017 eligibility determination is RESCINDED, in part, as it pertains to your eligibility.

Your case is RETURNED to NYSOH to reenroll you into your Medicaid Managed Care plan, effective May 1, 2017 continuing until February 28, 2017 barring any disqualifying events, and to notify you accordingly.

The March 24, 2017 eligibility determination is AFFIRMED, in part, as it pertains to your newborn child's eligibility.

Effective Date of this Decision: August 24, 2017

How this Decision Affects Your Eligibility

You are enrolled in Medicaid coverage, which should have begun on March 1, 2017, and continues until February 28, 2018, barring subsequent changes in your eligibility.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan with a $15.00 monthly premium is May 1, 2017.

If You Disagree with this Decision (Appeal Rights)

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 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 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

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- By fax: 1-855-900-5557

Summary

The March 4, 2017 eligibility determination is MODIFIED to reflect that you were eligible for Medicaid, effective March 1, 2017.

The March 24, 2017 eligibility determination is RESCINDED, in part, as it pertains to your eligibility.

The March 24, 2017 eligibility determination is AFFIRMED, in part, as it pertains to your newborn child's eligibility.

You are enrolled in Medicaid coverage, which should have begun on March 1, 2017, and continues until February 28, 2018, barring subsequent changes in your eligibility.

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan with a $15.00 monthly premium is May 1, 2017.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

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).

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.

□□□□□ (Bengali)

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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 महत्त्वपूर्ण 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 yɛ tow krataa a ho hia. Sɛ wo hia ɛho nkyerɛkyerɛmu a, yɛ srɛ wo, frɛ 1-855-355-5777. yƐbƐtumi ama wo obi a ɔkyerƐ kasa a woka no ase ama wo kwa a wontua hwee.

اردو (Urdu)

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم1-855-355-5777 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)

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).