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

Notice of Decision

Decision Date: October 27, 2017

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000019764

[redacted]

Dear [redacted],

On September 8, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 17, 2016 disenrollment and January 25, 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).

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Decision

Decision Date: October 27, 2017

NY State of Health Account ID: [redacted]
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[redacted]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

> Did you provide a timely appeal request of NY State of Health's (NYSOH) December 17, 2016 disenrollment and January 25, 2017 eligibility determination notices?
>
> Did NYSOH properly determine that your wife was disenrolled from her Medicaid Managed Care plan as of January 31, 2017, and not eligible for full Medicaid benefits in the month of February 2017?

Procedural History

On May 5, 2016, NYSOH issued an eligibility determination notice stating that your wife was eligible for the Essential Plan, effective June 1, 2016.

Also on May 5, 2016, NYSOH issued an enrollment confirmation notice stating that your spouse was enrolled in the Essential Plan, effective June 1, 2016.

On September 16, 2016, you updated your NYSOH account to indicate that your wife was pregnant.

On September 17, 2016, NYSOH issued an eligibility determination notice stating that your wife was eligible for Medicaid, effective September 1, 2016. The notice stated that your wife was eligible for Medicaid because her income was below the applicable limit for that program.

Also on September 17, 2016, NYSOH issued a disenrollment notice stating that your spouse's coverage in the Essential Plan would end effective September 30, 2016 because she was no longer eligible to remain enrolled in her current health plan.

On September 22, 2016, NYSOH issued a notice stating that your wife was enrolled into a Medicaid Managed Care plan, effective November 1, 2016.

On December 3, 2016, NYSOH issued a renewal notice stating your wife could not be enrolled in her current health plan for the next coverage year. The notice also stated that she had been enrolled in an Essential Plan 3, with a February 1, 2017 start date. The notice stated she was determined eligible to enroll in the Essential Plan 3 because she was in the first five years of her qualified immigration status or are living in the United States under color of law (PRUCOL) and that the household income listed in your application was between $0.00 and $27,821.00.

On December 17, 2016, NYSOH issued a disenrollment notice stating that your wife's enrollment in her Medicaid Managed Care plan would end January 31, 2017 because she was no longer eligible to enroll in that plan.

Also on December 17, 2016, NYSOH issued an enrollment confirmation notice stating that she was enrolled in the Essential Plan 3, effective February 1, 2017.

On January 24, 2017, NYSOH received your wife's updated application for financial assistance with her health insurance.

On January 25, 2017, NYSOH issued an eligibility determination notice stating your wife was conditionally eligible for Medicaid, effective February 1, 2017. The notice requested you provide proof of your income by February 8, 2017.

On January 25, 2017, NYSOH issued a disenrollment notice confirming your wife's disenrollment from her Essential Plan 3, effective February 1, 2017.

On February 21, 2017, your NYSOH account was updated. Specifically, your newborn baby was added to your NYSOH account and your wife's status was updated to not pregnant.

On February 22, 2017, NYSOH issued an eligibility determination notice stating your wife was conditionally eligible to enroll in the Essential Plan 3 with no monthly premiums, effective March 1, 2017. The notice requested you provide proof of your income by May 22, 2017

On February 22, 2017, NYSOH issued an enrollment notice confirming your wife's enrollment on February 21, 2017 in an Essential Plan 3, effective March 1, 2017.

On June 14, 2017, you contacted NYSOH's Account Review Unit and requested an appeal insofar as your wife was not eligible for full Medicaid benefits in the month of February 2017.

On September 8, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and

Findings of Fact

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

1) You are appealing your wife's eligibility for health insurance in the month of February 2017.

2) Your wife was eligible for and enrolled in an Essential Plan 3 effective June 1, 2016.

3) On September 16, 2016, you updated your NYSOH account to indicate that your wife was pregnant with one child. That application also listed an annual household income of $15,600.00 and that your wife will be filing taxes with a filing status of married filing jointly and claiming one dependent.

4) Your spouse was found eligible for Medicaid effective September 1, 2016 and enrolled into a Medicaid Managed Care plan effective November 1, 2016.

5) Your spouse was disenrolled from her Medicaid Managed Care plan effective January 31, 2017.

6) On January 24, 2017, you updated your NYSOH account to indicate a household income of $27,359.56. You testified this was correct.

7) Your wife was found conditionally (presumptively) eligible for Medicaid for the month of February 2017.

8) Your wife gave birth on [redacted]

9) You testified that you have unpaid medical bills which were not covered by presumptive Medicaid for the delivery of your child.

10) You testified you did not receive the medical bills from the hospital that delivered your child until a few months after the delivery.

11) You testified that your wife is a lawful permanent resident who entered the country in June 2013.

12) Your wife was eligible for and enrolled in the Essential Plan 3 effective March 1, 2017.

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

Applicable Law and Regulations

Medicaid-Pregnant Women

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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); New York State Department of Health 13 OHIP/ADM-03). Once eligible, a pregnant woman will remain eligible until the end of the month in which the sixtieth day following the end of the pregnancy occurs, regardless of any change in household income, even if such change would render her ineligible for financial assistance (NY Social Services Law § 366(4)(b)(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 is $24,300.00 for a four-person household (82 Fed. Reg. 8831).

Presumptive Eligibility for Pregnant Women

In New York State, presumptive eligibility for Medicaid is a means of immediately providing Medicaid coverage for prenatal care services pending a full Medicaid

eligibility determination. A pregnant woman does not need to provide documentation of income for the presumptive eligibility determination**.** Pregnant women are also not required to document citizenship/immigration status for presumptive eligibility or for ongoing Medicaid eligibility. Citizenship/immigration status is not an eligibility requirement for a pregnant woman throughout her pregnancy and for 2 months after the month in which the pregnancy ends (N.Y. Soc. Serv. Law § 366 (4)(b)). Medicaid pays providers during the presumptive eligibility period for care provided to pregnant women; however, as a matter of Medicaid Program policy, labor and delivery services are excluded from payment.

Qualified Immigrants

In NY State, qualified immigrants who were formerly eligible for Medicaid through the state, but not eligible for Medicaid under federal law, were transitioned to the Essential Plan as of January 1, 2016 (New York's Basic Health Plan Blueprint, p. 19, as approved January 2016; see https://www.medicaid.gov/basic-health-program/basic-health-program.html). This category of qualified immigrants includes individuals lawfully admitted for permanent residence in the United States who are still in their first five years of permanent residency. (18 NYCRR § 349.3, 8 USC § 1613).

Timely Appeal Requests

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR § 358-3.5(b)(1)).

Legal Analysis

The first issue under review is whether you provided a timely appeal of NYSOH's December 17, 2016 disenrollment and January 25, 2017 eligibility determination notices.

On December 17, 2016, a disenrollment notice was issued stating that your wife was disenrolled from her Medicaid Managed Care plan, effective January 31, 2017. On January 25, 2017, NYSOH issued an eligibility determination notice stating your wife was conditionally eligible for Medicaid, effective February 1, 2017.

On June 14, 2017, you contacted NYSOH's Account Review Unit and requested an appeal insofar as your wife was not eligible for full Medicaid benefits in the month of February 2017.

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH.

For an appeal to have been valid on the issue of your wife's presumptive eligibility for Medicaid effective February 1, 2017, as addressed in the January 25, 2017 notice, an appeal should have been filed by March 31, 2017. A formal appeal was not filed until June 14, 2017.

However, you testified that you did not realize you had outstanding medical bills until the hospital that delivered your child sent you those bills a few months after the delivery date.

Therefore, your appeal of the December 17, 2016 disenrollment and January 25, 2017 eligibility determination notices may be considered timely and may be reviewed by the NYSOH's Appeals Unit.

The second issue under review is whether NYSOH properly determined your wife was disenrolled from her Medicaid Managed Care plan as of January 31, 2017, and not eligible for full Medicaid benefits in the month of February 2017.

On May 5, 2016, NYSOH issued an eligibility determination notice stating that your wife was eligible for the Essential Plan, effective June 1, 2016. This was partly because as of January 1, 2016, who were not eligible for Medicaid under federal law due to being in the first five years of their permanent residency, must now receive coverage through the Essential Plan.

On September 16, 2016, you updated your NYSOH account to indicate that your wife was pregnant with one child. As a result, your wife was disenrolled from the Essential Plan and found eligible for Medicaid because immigration status is not an eligibility requirement for Medicaid for a pregnant woman throughout her pregnancy.

On September 17, 2016, NYSOH issued an eligibility determination notice stating that your wife was eligible for Medicaid, effective September 1, 2016. On September 22, 2016, NYSOH issued a notice stating that your wife was enrolled into a Medicaid Managed Care plan, effective November 1, 2016.

For reasons that are unclear in the record, NYSOH then issued a December 3, 2016 renewal notice which found your wife eligible for the Essential Plan 3 based on her immigration status, even though your NYSOH account still indicated that your wife was pregnant and not expecting to give birth until [redacted]. As a result of this notice, your spouse was disenrolled from her Medicaid Managed Care plan as of January 31, 2017.

On January 24, 2017, you updated your NYSOH account to indicate a household income of $27,359.56 and your wife was found conditionally eligible (presumptively) for Medicaid as of February 1, 2017.

However, once eligible for Medicaid, a pregnant woman will remain eligible until the end of the month in which the sixtieth day following the end of the pregnancy occurs, regardless of any change in household income, even if such change would render her ineligible for financial assistance.

The record indicates that your wife was found fully eligible for Medicaid as of September 1, 2016 and enrolled in a Medicaid Managed Care plan as of November 1, 2016 and that no event occurred that would have disturbed that eligibility. Therefore, her Medicaid enrollment should have continued until the end of the sixtieth day following the end of her pregnancy. Since your wife gave birth on [redacted] she should have been continually enrolled in Medicaid until April 30, 2017.

Therefore, the December 17, 2016 disenrollment notice stating that your wife was disenrolled from her Medicaid Managed Care plan, effective January 31, 2017 is RESCINDED.

The January 25, 2017 eligibility determination is MODIFIED to state that your wife remained eligible for Medicaid, effective February 1, 2017.

Decision

The December 17, 2016 disenrollment notice is RESCINDED.

The January 25, 2017 eligibility determination is MODIFIED to state that your wife remained eligible for Medicaid, effective February 1, 2017.

Your case is RETURNED to NYSOH to reinstate your wife into her Medicaid Managed Care plan for the month of February 2017.

Effective Date of this Decision: October 27, 2017

How this Decision Affects Your Eligibility

Your wife was improperly disenrolled from her Medicaid Managed Care plan for the month of February 2017.

Your case is being sent back to NYSOH to reinstate your wife into her Medicaid Managed Care plan for February 2017.

This decision has no effect on your household's current eligibility or enrollment.

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 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

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).

Albany, NY 12211

- By fax: 1-855-900-5557

Summary

The December 17, 2016 disenrollment notice is RESCINDED.

Your wife was improperly disenrolled from her Medicaid Managed Care plan for the month of February 2017.

The January 25, 2017 eligibility determination is MODIFIED to state that your wife remained eligible for Medicaid, effective February 1, 2017.

Your case is RETURNED to NYSOH to reinstate your wife into her Medicaid Managed Care plan for the month of February 2017.

Your case is being sent back to NYSOH to reinstate her into her Medicaid Managed Care plan for February 2017.

This decision has no effect on your household's current eligibility or enrollment.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

[redacted]

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.

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 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)

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).

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