



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

Notice of Decision

Decision Date: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023273

[REDACTED]

[REDACTED]

On January 12, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's determination that you were eligible for presumptive Medicaid only in the month of August 2017.

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: January 23, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000023273



Issue

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

Did NY State of Health (NYSOH) properly determine that you were eligible for presumptive Medicaid only, as of August 1, 2017?

Procedural History

On January 30, 2017, you updated your NYSOH application for financial assistance with health insurance.

On January 31, 2017, NYSOH issued a notice stating that you were conditionally eligible for Medicaid, effective January 1, 2017, but that NYSOH needed more information to confirm your eligibility. The notice directed you to submit documentation of the benefit information from your third-party health insurance (TPHI) by February 14, 2017. The notice further stated that you were not eligible to enroll in a Medicaid Managed Care (MMC) plan because you had Medicare or other full benefit health insurance.

On February 15, 2017, you uploaded a copy of a termination letter, that also referenced the termination of your TPHI as of February 10, 2017, to your NYSOH account.

On February 24, 2017, NYSOH reviewed the documentation you submitted and redetermined your eligibility.

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On February 25, 2017 and March 1, 2017, NYSOH issued notices of eligibility determination stating that you were eligible for Medicaid, effective February 1, 2017. However, the notices still stated that you were not eligible to enroll in an MMC plan because you had Medicare or other full benefit health insurance.

On June 27, 2017, you updated your NYSOH account. In that updated, you indicated that you were now married, you were pregnant and expecting one child on August 27, 2017, and you added your spouse and two stepchildren to your account.

On June 28, 2017, NYSOH issued a notice of eligibility determination stating that your spouse was eligible to receive advance payments of the premium tax credit, but did not make any determination of your eligibility. Though your spouse's eligibility was not conditional or limited, the notice directed you to submit documentation of your household income by July 12, 2017.

On July 5, 2017, you again uploaded a copy of your termination letter to your NYSOH account.

On July 6, 2017, NYSOH issued a notice stating that the documentation you submitted was not sufficient to confirm the information in your application, and directing you to submit documentation of your income by July 27, 2017.

On July 10, 2017, you again uploaded a copy of your termination letter to your NYSOH account.

On July 12, 2017, NYSOH issued a notice stating that the documentation you submitted was not sufficient to confirm the information in your application, and directing you to submit documentation of your income by July 27, 2017.

On August 7, 2017, NYSOH redetermined your eligibility.

On August 8, 2017, NYSOH issued a notice stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until December 31, 2017 because certain individuals who qualified for Medicaid receive coverage for twelve continuous months from the date they were last determined eligible. The notice also directed you to select a health plan for enrollment.

On August 19, 2017, NYSOH issued a notice confirming your enrollment in a Fidelis MMC plan, beginning October 1, 2017.

On September 6, 2017, your NYSOH account was updated. That day, you added your newborn child, who was born on August 21, 2017, to your NYSOH account.

On September 7, 2017, NYSOH issued a notice of eligibility determination stating that you were no longer Medicaid eligible, but that your Medicaid coverage would continue until December 31, 2017. The notice also stated that your newborn was eligible for Medicaid, effective August 1, 2017.

Also on September 7, 2017, NYSOH issued a notice confirming that you and your newborn were both enrolled in a Fidelis MMC plan. The notice stated that your newborn had been enrolled in the plan because newborns are enrolled into the same plan as their mother had when they were born.

On October 11, 2017, you spoke to NYSOH's Account Review Unit and requested an appeal, insofar as you were given presumptive Medicaid coverage only during the month of August 2017.

On January 12, 2018, 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 appealing to have full Medicaid eligibility for August 2017 because that is the month in which you gave birth.
- 2) Your NYSOH account reflects that you were found fully eligible for Medicaid in an eligibility determination dated February 25, 2017.
- 3) You testified that you applied for coverage in January 2017 because you knew you were losing your job and your employer-sponsored insurance (ESI).
- 4) Your NYSOH account reflects that you uploaded a document indicating that your ESI ended as of February 10, 2017, and that this document was reviewed and verified by NYSOH on February 24, 2017 (Document [REDACTED]).
- 5) Your NYSOH account reflects that, even though NYSOH verified the documentation showing that your ESI ended, NYSOH continued to find you ineligible to enroll in an MMC plan on the basis that you had other full benefit health insurance.
- 6) You testified that, in June 2017, you updated your NYSOH account because you got married on [REDACTED].

- 7) Your NYSOH account reflects that you updated your account on June 27, 2017, and added your spouse and two stepchildren to your account. You also indicated that you were pregnant and expecting one child on [REDACTED].
- 8) You testified that you updated your application through a Navigator, and that you provided her with your termination letter, as well as paycheck stubs for your spouse, on July 10, 2017.
- 9) Your NYSOH account reflects that your termination letter was uploaded again on July 5 and July 10, 2017, but does not contain any paystubs for your spouse.
- 10) You testified that you received the July 6 and July 12, 2017 notices indicating that the documentation you submitted was insufficient.
- 11) You testified that your Navigator called NYSOH after the July 12, 2017 notice was issued, and was told that it could take seven to ten days for documentation to be reviewed, and that you did not need to do anything further.
- 12) You testified that you received the August 8, 2017 notice stating that you would no longer be eligible for Medicaid, but that your coverage would continue until December 31, 2017, so you thought that your coverage was fine.
- 13) You testified that, on [REDACTED], you went to your final doctor's appointment before you were going to be admitted to the hospital to deliver your child, you were told that your Medicaid coverage was only "presumptive," and that it would not cover your labor and delivery.
- 14) You testified that you tried to call your Navigator because you were scheduled to be admitted to the hospital on [REDACTED], but you could not reach her, so you contacted someone else through Social Services to assist you, and met with this person on [REDACTED].
- 15) You testified that your new assistor, [REDACTED], contacted NYSOH and was told that everything was fine with your coverage, and that you did not need to do anything else at that time.
- 16) You testified that, on August 19, 2017, you received a notice confirming your enrollment in an MMC plan, and that your application counselor told you that you would not have been able to select a plan if there was anything wrong with your coverage.

- 17) You testified that, in early October 2017, you received a bill from the hospital for \$11,000.00, and that you contacted your application counselor, who advised you to request an appeal.
- 18) You testified that you were never advised verbally or in writing by NYSOH that your coverage was only presumptive.

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 \$12,060.00 for a one-person household (82 Federal Register 8831).

Generally, most adults 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

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care, citizenship status, lack of state residence, or failing to provide a valid Social Security number (NY Social Services Law § 366(4)(c)).

Medicaid 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 two months after the month in which the pregnancy ends (NY Social Services 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.

Legal Analysis

The issue is whether NYSOH properly determined that you were eligible for presumptive Medicaid only, beginning August 1, 2017.

You were found fully eligible for Medicaid in a determination issued by NYSOH on February 25, 2017. That eligibility was not appealed, and is not under review.

On June 27, 2017, you updated your NYSOH account and added your spouse and two stepchildren. You also indicated that you were pregnant and expecting one child on [REDACTED]

After this application update, NYSOH issued a notice of eligibility determination that contained your spouse's eligibility for financial assistance, but failed to make any mention of your eligibility for financial assistance. The only indication in that notice that NYSOH was reviewing your eligibility was a request that you submit income documentation.

You testified that you later found out that you had been put into presumptive eligibility, which led to a lack of coverage for your [REDACTED] charges from the hospital. You testified that no one ever mentioned to you that you had presumptive coverage until August 17, 2017, and that, when your application counselor called NYSOH on August 18, 2017 to inquire about your eligibility, she was told that there was no problem, and you had coverage.

Your NYSOH account is entirely void of any notices indicating that you had limited or presumptive eligibility. Indeed, after the application update you made

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on June 27, 2017, in which you indicated that you were pregnant, the eligibility determinations issued only stated that you were no longer Medicaid eligible, but that your coverage would continue until December 31, 2017. Moreover, you were advised to enroll in an MMC plan in the eligibility determination dated August 8, 2017, and were permitted to enroll in a plan that started on October 1, 2017.

Pregnant women who apply for Medicaid, and whose financial eligibility is not confirmed, will be eligible for presumptive Medicaid only until the woman's eligibility for full Medicaid can be determined. Presumptive Medicaid eligibility covers prenatal care only, as a matter of policy.

Had you been without coverage, or enrolled in non-Medicaid coverage, prior to your June 27, 2017 application update, your Medicaid eligibility would have properly been presumptive, as NYSOH needed to verify your financial eligibility. It is noted for the record that NYSOH failed to issue any notices that stated that you had presumptive eligibility, but it appears from NYSOH's system that this was the eligibility you were given when you updated your application on June 27, 2017.

However, you were already receiving full Medicaid coverage when you updated your application on June 27, 2017 and added your pregnancy. Though NYSOH had incorrectly been preventing you from enrolling in an MMC plan, (presumably because NYSOH did not follow the proper procedures for updating the system to reflect that your TPHI had ended as of February 10), you were nevertheless fully eligible for Medicaid as of February 1, 2017.

Under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called "continuous coverage."

Credible evidence confirms that you were eligible for Medicaid effective February 1, 2017, and that even though your estimated annual household income increased when you modified your application on June 27, 2017, you remained eligible for and enrolled in Medicaid for the remainder of your 12-month eligibility period. NYSOH's actions in changing your eligibility to presumptive were incorrect.

Therefore, your case is RETURNED to NYSOH to reinstate you in full fee-for-service Medicaid coverage for the period of February 1, 2017 through December 31, 2017; it is noted you were found fully eligible for Medicaid again, effective January 1, 2018.

NYSOH is directed to assist you with submitting your hospital bills from August 2017 to Medicaid for reimbursement.

Additionally, your case is RETURNED to NYSOH to permit you to backdate your MMC plan enrollment to April 1, 2017, if you so choose, as you should have been permitted to select an MMC plan as of the February 25, 2017 eligibility determination.

Decision

NYSOH incorrectly determined that you were eligible for presumptive Medicaid only, effective August 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in full fee-for-service Medicaid for the period of February 1, 2017 through December 31, 2017.

NYSOH is directed to assist you in presenting your hospital bills from August 2017 to Medicaid for reimbursement.

Your case is RETURNED to NYSOH to backdate your enrollment in your Fidelis MMC plan to April 1, 2017, if you would like to have your MMC coverage backdated.

Effective Date of this Decision: January 23, 2018

How this Decision Affects Your Eligibility

This decision does not affect or change your current Medicaid eligibility.

Your Medicaid coverage, which began on February 1, 2017, should have continued for a twelve-month period, regardless of your June 27, 2017 application updated.

Your eligibility should not have been changed to presumptive eligibility as of August 1, 2017.

Your case is being sent back to NYSOH to reinstate you in full Medicaid for the period of February 1, 2017 through December 31, 2017.

NYSOH will assist you in submitting your August 2017 hospital bill for reimbursement by Medicaid.

You should have been allowed to enroll in an MMC plan beginning April 1, 2017. Therefore, your case is being sent back to NYSOH to backdate your MMC plan enrollment, if you choose to have it backdated.

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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

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Albany, NY 12211

- By fax: 1-855-900-5557

Summary

NYSOH incorrectly determined that you were eligible for presumptive Medicaid only, effective August 1, 2017.

Your case is RETURNED to NYSOH to reinstate you in full Fee-For-Service Medicaid for the period of February 1, 2017 through December 31, 2017.

NYSOH is directed to assist you in presenting your hospital bills from August 2017 to Medicaid for reimbursement.

Your case is RETURNED to NYSOH to backdate your enrollment in your Fidelis MMC plan to April 1, 2017, if you would like to have your MMC coverage backdated.

This decision does not affect or change your current Medicaid eligibility.

Your Medicaid coverage, which began on February 1, 2017, should have continued for a twelve-month period, regardless of your June 27, 2017 application updated.

Your eligibility should not have been changed to presumptive eligibility as of August 1, 2017.

Your case is being sent back to NYSOH to reinstate you in full Medicaid for the period of February 1, 2017 through December 31, 2017.

NYSOH will assist you in submitting your August 2017 hospital bill for reimbursement by Medicaid.

You should have been allowed to enroll in an MMC plan beginning April 1, 2017. Therefore, your case is being sent back to NYSOH to backdate your MMC plan enrollment, if you choose to have it backdated.

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 مجاناً.

বাংলা (Bengali)

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।

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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 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 okyer& 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 דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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