



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

## Notice of Decision

Decision Date: March 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024395

[REDACTED]

Dear [REDACTED],

On February 8, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 9, 2017 disenrollment notice and November 16, 2017 eligibility determination notice.

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: March 13, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000024395

[REDACTED]

## 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 no longer eligible for Medicaid and properly disenroll you from your Medicaid Managed Care plan, effective November 30, 2017 and December 31, 2017?

## Procedural History

On May 27, 2017, NYSOH issued a notice of eligibility determination stating that you were eligible for Medicaid because your household income of \$19,912.62 was at or below the allowable income limit. This eligibility was effective as of May 1, 2017.

On June 6, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a Medicaid Managed Care plan, effective July 1, 2017.

On June 13, 2017, NYSOH received your updated application for health insurance; specifically, the income information and household composition was updated.

On June 14, 2017, NYSOH issued an eligibility determination notice stating that you were no longer eligible for Medicaid. However, your Medicaid coverage would continue until April 30, 2018, because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from

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the date that they were determined eligible. This eligibility was effective as of June 1, 2017.

On November 8, 2017, NYSOH received your updated application for health insurance; specifically, the income information was updated.

On November 9, 2017, NYSOH issued an eligibility determination notice stating that you were eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time, effective December 1, 2017, and no longer qualified for Medicaid as of November 30, 2017.

Also on November 9, 2017, NYSOH issued a disenrollment notice stating that your coverage with a Medicaid Managed Care plan would end on November 30, 2017.

On November 15, 2017, NYSOH received your updated application for health insurance. That day, a preliminary determination was prepared stating that you were eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time, effective December 1, 2017.

Also on November 15, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your eligibility for Medicaid and enrollment in a Medicaid Managed Care plan had ended.

On November 16, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time, effective December 1, 2017.

On November 21, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid, effective December 1, 2017.

Also on November 21, 2017, NYSOH issued a plan enrollment notice confirming you were enrolled in a Medicaid Managed Care plan as of December 1, 2017.

On December 5, 2017, NYSOH issued another eligibility determination notice stating you were eligible to receive up to \$151.00 in advance payments of the premium tax credit for a limited time, effective January 1, 2018, and no longer qualified for Medicaid through NYSOH as of December 31, 2017.

Also on December 5, 2017, NYSOH issued a disenrollment notice stating that your coverage with a Medicaid Managed Care plan would end on December 31, 2017.

On February 8, 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 were determined eligible for Medicaid, effective May 1, 2017.
- 2) There is no indication in the record that you were incarcerated, or obtained health insurance outside of NYSOH since you were determined eligible for Medicaid.
- 3) You testified that you contacted NYSOH to update your income, and were advised that your Medicaid coverage would continue until the end of April 2018.
- 4) You testified that you contacted NYSOH in November 2017 to update your name in your account, as you had legally changed it and wanted a new insurance card. You did not intend to submit an updated application for financial assistance.
- 5) Updated applications were submitted on November 8, 2017, and November 15, 2017, resulting in you being determined eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time.
- 6) According to the November 8, 2017 application, you attested to an increased expected household income of \$45,000.00. You testified that this is correct.
- 7) Your NYSOH account was updated on November 20, 2017, and you were redetermined eligible for Medicaid and put back into your Medicaid Managed Care plan as of December 1, 2017.
- 8) Your NYSOH account was again updated on December 4, 2017, and you were determined eligible to receive tax credits and no longer eligible for Medicaid as of December 31, 2017.
- 9) You were disenrolled from your Medicaid Managed Care plan as of December 31, 2017, and have been without health insurance since then.
- 10) Your application states that you reside in Kings County, NY.

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- 11) You testified that you are seeking to have your Medicaid coverage restored.
- 12) According to your NYSOH account, on March 12, 2018, your coverage in your Fidelis Care Medicaid Managed Care plan was backdated to January 1, 2018, due to incorrect loss of coverage before April 30, 2018.
- 13) According to your NYSOH account, coverage in your Medicaid Managed Care plan will remain in place from January 1, 2018 until May 31, 2018.

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 (81 Federal Register 4036).

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

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start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were no longer eligible for Medicaid and disenrolled from your Medicaid Managed Care plan, effective November 30, 2017 and December 31, 2017.

On May 27, 2017, NYSOH issued an eligibility determination notice stating that you were eligible for Medicaid, effective May 1, 2017. That determination has not been appealed and is not under review.

On November 8, 2017, you updated your application for financial assistance. On November 9, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time, effective December 1, 2017, and no longer qualified for Medicaid as of November 30, 2017. Also on November 9, 2017, NYSOH issued a disenrollment notice, stating that your coverage with a Medicaid Managed Care plan would end on November 30, 2017.

On November 15, 2017, you updated your application for financial assistance. On November 16, 2017, NYSOH issued an eligibility determination notice, stating that you were eligible to receive up to \$93.00 in advance payments of the premium tax credit for a limited time, effective December 1, 2017.

Your NYSOH account was updated on November 20, 2017, and you were redetermined eligible for Medicaid and put back into your Medicaid Managed Care plan as of December 1, 2017.

On December 4, 2017 however, NYSOH redetermined your eligibility and found you eligible for tax credits again as of January 1, 2018, and no longer eligible for Medicaid as of December 31, 2017.

You credibly testified that you contacted NYSOH in November 2017 to update your name in your account, as you had legally changed it and wanted a new insurance card. You did not intend to submit an updated application for financial assistance. As a result of those calls, new applications were run and you were

disenrolled from your Medicaid Managed Care plan as of November 30, 2017, with direction to submit income documentation for your household.

You were re-enrolled into your Medicaid Managed Care plan as of December 1, 2017, but were subsequently disenrolled from your health plan as of December 31, 2017, leaving you without coverage as of January 1, 2018.

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

The record reflects that there were no events that would have been a basis for your Medicaid coverage to have been terminated prior to the end of the 12 months of coverage, such as a permanent move or incarceration. An increase in income is not a legitimate basis for termination. Since you were determined eligible for Medicaid based on the application submitted on May 26, 2017, effective May 1, 2017, you remained eligible for Medicaid for 12 continuous months, regardless of any increases in your household income. As a result, you were improperly disenrolled from Medicaid and your Medicaid Managed Care plan, effective November 30, 2017 and again as of December 31, 2017.

Since NYSOH determined you were eligible for Medicaid as of May 1, 2017, and therefore eligible for continuous coverage, the November 9, 2017 and December 5, 2017 disenrollment notices are RESCINDED.

Since you should have remained eligible for Medicaid until April 30, 2018, the November 16, 2017 and December 5, 2017 eligibility determination notices stating that you were eligible to receive tax credits are RESCINDED.

Ordinarily, your case would be RETURNED to NYSOH to reinstate you into your Medicaid Managed Care plan as of January 1, 2018 and to continue your coverage until the end of your 12-month continuous coverage period, that is until April 30, 2018.

The record reflects that corrective action was taken on March 12, 2018, and coverage in your Fidelis Care Medicaid Managed Care plan was restored as of January 1, 2018, and will continue until May 31, 2018.

You will need to recertify or renew your eligibility for financial assistance between April 16, 2018 and May 15, 2018. You should receive a separate notice from NYSOH in this regard.



## **Decision**

The November 9, 2017 and December 5, 2017 disenrollment notices are RESCINDED.

The November 16, 2017 and December 5, 2017 eligibility determination notices are RESCINDED.

Your coverage has been restored in your Fidelis Care Medicaid Managed Care plan as of January 1, 2018 and will continue until May 31, 2018.

**Effective Date of this Decision:** March 13, 2018

## **How this Decision Affects Your Eligibility**

Your Medicaid coverage, which began on May 1, 2017, continues until May 31, 2018, barring subsequent changes in your eligibility.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you 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.

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).

London, KY 40750-0061

- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The November 9, 2017 and December 5, 2017 disenrollment notices are **RESCINDED**.

The November 16, 2017 and December 5, 2017 eligibility determination notices are **RESCINDED**.

Your coverage has been restored in your Fidelis Care Medicaid Managed Care plan as of January 1, 2018 and will continue until May 31, 2018.

Your Medicaid coverage, which began on May 1, 2017, continues until May 31, 2018, barring subsequent changes in your eligibility.

You will need to recertify or renew your eligibility for financial assistance between April 16, 2018 and May 15, 2018. You should receive a separate notice from NYSOH in this regard.

### **Legal Authority**

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

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

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