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

Notice of Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024654

[redacted]

[redacted],

On January 18, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 22, 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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STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Decision

Decision Date: February 13, 2018

NY State of Health Account ID: [redacted]
Appeal Identification Number: AP000000024654

[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 no longer eligible for Medicaid, but would continue to receive Medicaid coverage, effective January 1, 2018?

Procedural History

There were two active accounts opened for you in NYSOH's system. Both accounts impact this decision such that the procedural history for each will be addressed.

[redacted]

On December 2, 2016, NY State of Health (NYSOH) issued an eligibility determination notice stating you were eligible to enroll in the Essential Plan, effective January 1, 2017.

On December 2, 2016, NYSOH issued a plan enrollment notice confirming your enrollment in the Essential Plan for a cost of $20.00 per month, effective January 1, 2017 [sic].

On October 24, 2017, NYSOH issued a renewal notice stating it was time to renew your coverage for the next year. The notice stated, based on information from state and federal data sources, a decision could not be made about whether you qualified for financial assistance. The notice directed you to update the

information in your account by December 15, 2017. If you missed this deadline, the health insurance and financial assistance you were currently receiving may end.

On November 21, 2017, NYSOH received your updated application for financial assistance with your health insurance.

That day, a preliminary eligibility determination was prepared based on your last application finding you no longer eligible for Medicaid, but that Medicaid coverage would continue until a decision was made on your last application.

Also on November 21, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as Medicaid coverage was continued and you were no longer eligible for the Essential Plan.

On November 22, 2017, NYSOH issued an eligibility determination notice stating that, "this eligibility is effective January 1, 2018." It further stated you were no longer eligible for Medicaid. The notice did not list the insurance affordability program you were found eligible for.

On November 22, 2017, NYSOH issued a disenrollment notice stating your coverage in your Essential Plan would end on November 30, 2017.

On December 1, 2017, NYSOH issued an eligibility determination notice stating you were eligible for the Essential Plan for a cost of $20.00 per month for a limited time, effective December 1, 2017. The notice stated you were granted Aid to Continue until a decision was made on your appeal.

On December 1, 2017, NYSOH issued a notice stating your enrollment in the Essential Plan was effective December 1, 2017. This was as Aid to Continue.

On December 15, 2017, you marked your application as no longer seeking health insurance on this account.

On December 16, 2017, NYSOH issued a notice stating you were no longer eligible for health insurance through NYSOH as of January 1, 2018. The notice stated this was because you no longer want to receive coverage.

All activity through this account ended and your status was changed to inactive as of January 5, 2018.

[redacted]

On December 15, 2017, you applied on your spouse's account with NYSOH and indicated you were seeking health insurance.

On December 16, 2017, NYSOH issued an eligibility determination notice stating you were eligible to purchase a qualified health plan at full cost, effective January 1, 2018. The notice stated you were not eligible for financial assistance programs such as Medicaid because you are qualified for coverage on another NYSOH account.

On January 6, 2018, NYSOH issued an eligibility determination notice, based on your last application, stating that you were eligible to enroll in the Essential Plan with a $20.00 per month, effective February 1, 2018. You were instructed to pick a plan.

On January 18, 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 seeking to be found eligible for the Essential Plan and not Medicaid.

2) You testified that you filed your application on November 21, 2017, with a NYSOH Agent over the telephone. Your NYSOH account [redacted]) confirms this.

3) Your first application submitted on November 21, 2017, indicates you expect to file your 2017 federal income tax return as married filing single and expect to claim one dependent on your tax return.

4) Your second application submitted on November 21, 2017, indicates you expect to file your 2017 federal income tax return as married filing single and your spouse will claim your child as a dependent.

5) You testified that you believe your spouse will be claiming your child as a dependent on her 2017 taxes as of the date of your hearing.

6) Your application submitted on November 21, 2017 states you have an annual expected household income of $26,862.56. You testified it may be around $24,000.00.

7) According to your NYSOH account, a notice was issued to you on November 22, 2017, stating you were no longer eligible for Medicaid because the household income you provided of $26,862.56 was over

the allowable income limit. The notice did not state what program you were found eligible for.

8) NYSOH records and eMedNY records show you were receiving Medicaid for the month of November 2017.

9) You applied for financial assistance in a second NYSOH account [redacted]) on January 5, 2018, which account is under your spouse's name.

10) According to your second NYSOH account [redacted] you were determined eligible to enroll in the Essential Plan with a $20.00 per month premium, effective February 1, 2018. A notice was issued stating this on January 6, 2018.

11) As of the date of your hearing, you had not selected an Essential Plan to enroll in coverage in your second account ([redacted] You testified you were not aware you could now pick a plan and have been trying since November 2017.

12) Your application states you reside with your spouse and child in [redacted], NY.

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 through NYSOH can be provided 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 in 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 $16,240.00 for a two-person household and $20,420.00 for a three-person household (82 Federal Register 8831).

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 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)).

Household Size

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (*see* 42 CFR § 600.305, 42 CFR

§ 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

Essential Plan Effective Date

For individuals seeking enrollment in an Essential Plan, New York State has elected to follow the same rules that NYSOH uses in determining effective dates for individuals seeking enrollment in qualified health plans (NY Social Services Law § 369-gg(4)(c); New York's Basic Health Plan Blueprint, p. 16, as approved January 2016; *see* https://www.medicaid.gov/basic-health-program/basic-health-program.html).

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(i); *see also* 42 CFR § 600.320). For selections received by NYSOH from the sixteenth to the last day of any month, NYSOH must ensure coverage is effective the first day of the second following month (45 CFR §§ 155.410(f)(2), 155.420(b)(1)(ii)).

Legal Analysis

The issue under review is whether NYSOH properly determined you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage, effective January 1, 2018.

Generally, the household size of a taxpayer consists of the taxpayer plus all the people the taxpayer expects to claim as a tax dependent. Furthermore, married couples living together will be included in one another's Medicaid household regardless of if they plan on fling a joint tax return.

In the first application you submitted on November 21, 2017, you indicated you would be filing your 2017 taxes as married filing single and would claim your one child as a dependent. Therefore, you were in a three-person household consisting of yourself, your spouse, and your child for Medicaid purposes.

A second application was submitted with the assistance of a NYSOH representative on November 21, 2017. The second application stated you would be filing your 2017 taxes as married filing single, and your spouse would claim your child on her taxes. This application placed you in a two-person household for 2017, consisting of you and your wife because you were no longer claiming your child as a dependent.

On both of your November 21, 2017 applications, you attested to an expected household income of $26,862.56, and the eligibility determinations relied on that information.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 64 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your first application, November 21, 2017, the relevant FPL was $20,420.00 for a three-person household. Since $26,862.56 is 131.55% of the 2017 FPL, NYSOH properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application and applying it to a three-person household.

When you changed your application later on November 21, 2017, to include that your spouse was going to be claiming your child as a tax dependent, it changed the relevant FPL to a two-person household. Since you were no longer claiming your child as a dependent, they were not included in your household. The household was only you and your spouse because the Medicaid rules require that each spouse is included in the household of the other spouse if living together, as in your case. A two-person household FPL was $16,240.00 for 2017. An income of $26,862.56 is 165.41% of the applicable FPL and over the allowable income limit of 138% for purposes of Medicaid eligibility. The Essential Plan is provided for individuals who have a household income greater than 150% of the FPL or below 200%.

Since the first application submitted on November 21, 2017 found you eligible for Medicaid, you remained eligible for Medicaid despite the change to your second application that same day. Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months whether or not their income increases. This is referred to as “continuous coverage.”

The only notice issued to you based on both of your November 21, 2017 applications was one notice, dated November 22, 2017, stating you were no longer eligible for Medicaid because the household income you provided of $26,862.56 was over the allowable income limit for that program. The notice did not state what program you were found eligible for.

After you filed an appeal request on November 21, 2017, you were granted Aid to Continue in your Essential Plan as of December 1, 2017. You next updated your application with NYSOH on December 15, 2017, to state you were no longer applying for insurance in your account ([redacted]. The change of your status to not applying for health insurance caused your Essential Plan, as Aid to Continue, to terminate on December 31, 2017.

You then reapplied in a second account [redacted] where you were determined eligible to enroll in the Essential Plan with a $20.00 per month

premium, effective February 1, 2018, as stated in the notice issued on January 6, 2018.

According to NYSOH records, you were receiving Medicaid fee for service in the month of November 2017 ending November 30, 2017. You also had coverage in the Essential Plan until November 30, 2017. You were then granted Aid to Continue through your appeal and enrolled in an Essential Plan as of December 1, 2017. Your enrollment in the Essential Plan ended as of December 31, 2017, because you indicated in your December 15, 2017 updated application that you no longer needed health insurance through NYSOH.

Since the November 22, 2017 eligibility determination notice stating that you were no longer eligible for Medicaid, but would continue to have coverage until November 30, 2017, was issued based on incorrect household size information as entered in your first November 21, 2017 application, did not conform to the necessary requirements of an eligibility determination notice in that the program you were eligible for was not stated, and is no longer supported by the record, it is RESCINDED.

The effective date of coverage by an Essential Plan is determined by the date on which an applicant selects a plan for enrollment. For individuals who are eligible for enrollment, NYSOH must generally ensure that coverage is effective the first day of the following month for selections received by NYSOH from the first to the fifteenth of any month.

Since your new application under your second account [redacted] was submitted on January 5, 2018, the earliest your coverage in the Essential Plan could have started would be as of February 1, 2018. However, you testified that you were not aware that you could pick a health plan and have not yet selected one. Since it is now past the fifteenth of January 2018, and in the first half of February 2017, the next date your enrollment in an Essential Plan can start is March 1, 2018, at the earliest.

Your case is RETURNED to NYSOH to assist you in enrolling in the Essential Plan as of March 1, 2018, at the earliest.

Decision

The November 22, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to assist you in enrolling in the Essential Plan as of March 1, 2018, at the earliest.

Effective Date of this Decision: February 13, 2018

How this Decision Affects Your Eligibility

You were enrolled in Medicaid November 1, 2017 through November 30, 2017, and in the Essential Plan concurrently that month.

You were enrolled in the Essential Plan from December 1, 2017 through December 31, 2017 through Aid to Continue.

You were eligible for the Essential Plan as of February 1, 2018. The earliest start date for enrollment is March 1, 2018.

Your case is being sent back to assist you in enrolling in the Essential Plan and pick a plan effective March 1, 2018, if you so choose.

You will be responsible for any premium payments required by your health plan for the months you are enrolled.

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 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 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 22, 2017 eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to assist you in your enrollment in the Essential Plan as of February 1, 2018.

You were enrolled in Medicaid November 1, 2017 through November 30, 2017.

You were enrolled in the Essential Plan December 1, 2017 through December 31, 2017 through Aid to Continue.

You were eligible for the Essential Plan as of February 1, 2018.

Your case is being sent back to assist you in enrolling in the Essential Plan and pick a plan effective February 1, 2018 if you so choose.

You will be responsible for any premium payments required by your health plan for the months you are enrolled.

Legal Authority

We are sending you this notice 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)

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।

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).

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 नि:शुल्क 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).