



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

## Notice of Decision

Decision Date: March 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025598

[REDACTED]

Dear [REDACTED]

On February 21, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's December 12, 2017 and January 18, 2018 eligibility determinations.

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: March 22, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000025598



## Issues

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

Did NY State of Health properly determine your youngest child was eligible for Medicaid effective December 1, 2017?

Did NY State of Health properly determine your youngest child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until November 30, 2018?

## Procedural History

On December 5, 2017, NY State of Health (NYSOH) received an updated application for financial assistance with health insurance submitted on behalf of your family.

On December 6, 2017, NYSOH issued a notice stating the income information in your application did not match information received from state and federal data sources. You were directed to submit proof of your household income by December 20, 2017 or NYSOH would not be able to determine the eligibility of your youngest child.

On December 11, 2017, the eligibility of your youngest child was systematically redetermined. That day a preliminary eligibility determination was prepared finding your youngest child eligible for Medicaid.

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Also on December 11, 2017, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your youngest child was not eligible for the Essential Plan.

On December 12, 2017, NYSOH issued an eligibility determination notice stating your youngest child was eligible for Medicaid, effective December 1, 2017. The notice indicated your youngest child was eligible for Medicaid, because your household income of \$34,959.28 was at or below the allowable income limit of \$38,130.00.

Also on December 12, 2017, NYSOH issued an enrollment notice confirming your youngest child was enrolled in a Medicaid Managed Care plan, effective January 1, 2018.

On January 17, 2018, NYSOH received an updated application for financial assistance with health insurance submitted on behalf of your family.

On January 18, 2018, NYSOH issued an eligibility determination stating your youngest child was no longer eligible for Medicaid. However, the notice further stated that her Medicaid coverage would continue until November 30, 2018, because certain individuals determined eligible for Medicaid remain eligible for 12 continuous months from the date they were last determined eligible. This eligibility was effective as of January 1, 2018.

On February 21, 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 your youngest child's eligibility only.
- 2) On March 22, 2017, you submitted an application to NYSOH on behalf of your family, indicating you would file your 2017 tax return with a tax filing status of married filing jointly and you would claim your three children as dependents on that return. The application listed your annual household income as \$58,356.00, including employment income your spouse and your dependent child, [REDACTED] earned through their employments, as well as self-employment income you would earn, with a \$13,000.00 deduction for IRA contributions.

- 3) Based on the information in the March 22, 2017 application, your family, including your youngest child, were determined eligible to enroll in a qualified health plan with advance payments of the premium tax credit applied, effective June 1, 2017.
- 4) Your youngest child [REDACTED] on [REDACTED].
- 5) On December 5, 2017, you updated your application to renew your family's coverage for 2018.
- 6) That application indicated you would file your 2018 tax return with a tax filing status of married filing jointly. You testified that information was accurate.
- 7) The December 5, 2017 application indicated you would only claim two of your children as dependents on your 2018 tax return. You testified that information was accurate, because you would not claim your child [REDACTED] as a dependent on your 2018 tax return.
- 8) Your application reduced the attested annual income for your tax household for 2018 to \$34,959.28, including income your spouse and dependent child, [REDACTED], would earn through their employments, as well as self-employment income you would receive in 2018, with a \$13,000.00 deduction for IRA contributions.
- 9) Your oldest child's income was no longer included in the household income calculation as he was deemed to be in his own tax household.
- 10) You testified that your spouse updated the application online on December 5, 2017. You testified that the IRA deduction included in that application was for contributions you and your spouse made to your IRA in 2017. You testified that at the time that application was submitted, you intended to take that deduction on your 2018 tax return.
- 11) According to your account, NYSOH was unable to verify the income information in your application.
- 12) You, your spouse and your middle child were determined conditionally eligible for the Essential Plan with income documentation requested to confirm your eligibility.
- 13) Your youngest child was placed in a pending Medicaid status with documentation of the household income requested prior to determining her eligibility for health coverage.

- 14) On December 9, 2017, you uploaded paystubs for your spouse and your middle child as well records of your business income.
- 15) According to your account, NYSOH verified your income documentation on December 11, 2017, confirming the information in your prior application.
- 16) NYSOH systematically redetermined your December 5, 2017 application on December 11, 2017, finding you, your spouse, and your middle child fully eligible for the Essential Plan with no monthly premium, effective January 1, 2018.
- 17) Your youngest child was determined eligible for Medicaid, effective December 1, 2017.
- 18) You appealed insofar as your youngest child was not eligible for the Essential Plan.
- 19) You testified that you are seeking Essential Plan eligibility for your youngest child, because you want your whole family enrolled in the same plan to ensure that your medical providers all accept your family's insurance.
- 20) Your youngest child was enrolled in a Medicaid Managed Care plan, effective January 1, 2018.
- 21) You testified that your youngest child does not have any outstanding medical bills.
- 22) On January 17, 2018, you submitted an updated application on behalf of your youngest child removing the \$13,000.00 IRA deduction listed in your prior application. The remaining information in the January 17, 2018 application was identical to your prior application.
- 23) You testified that you updated your application on January 17, 2018 to "fix" your income, so your youngest child would no longer be eligible for Medicaid.
- 24) You testified that you removed the IRA deductions from your January 17, 2018 application, so that your youngest child would be eligible for the Essential Plan.
- 25) You testified that you no longer intend to take a deduction on your 2018 tax return for IRA contributions.

- 26) Following the January 17, 2018 application, NYSOH determined your youngest child was no longer eligible for Medicaid, but her Medicaid coverage would be continued to November 30, 2018.
- 27) The issue under appeal was amended to include the January 18, 2018 eligibility determination notice.
- 28) You testified that you do not understand why your youngest child's eligibility is different from the rest of your family.
- 29) You testified that your youngest child lives at home with you, but she is currently away at [REDACTED]

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

## **Applicable Law and Regulations**

### Medicaid Eligibility

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)).

A child aged 19 or 20, whose primary residence is with their parents, is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 155% of the federal poverty level (FPL) for the applicable family size (NY Social Services Law § 366(b)(7); New York State Department of Social Services Administrative Directive 13 OHIP/ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(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 that was the 2017 FPL, which is \$24,600.00 for a four-person household (82 Federal Register 8831).

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Generally, most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, citizenship status, 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 first issue under review is whether NYSOH properly determined your youngest child eligible for Medicaid, effective December 1, 2017.

According to the application filed December 5, 2017, your youngest child is in a four-person tax household, because you will claim her and another child as dependents on your 2018 tax return and you will file that return with a tax filing status of married filing jointly with your spouse.

In your December 5, 2017 application, you attested to annual household income for 2018 of \$34,959.28, which included a \$13,000.00 deduction for IRA contributions. You testified that your spouse updated the application online and at the time that application was submitted, you intended to take a deduction for contributions to your IRA in the amount attested to in that application. Furthermore, you submitted income documentation confirming the income information attested to in that application.

After verifying your income documentation, NYSOH systematically redetermined your December 5, 2017 application on December 11, 2017 and determined your youngest child was eligible for Medicaid, effective December 1, 2017. You appealed that determination insofar as your youngest child was not eligible for the Essential Plan, like the rest of your family.

The record reflects, that at the time of the December 5, 2017 application, your youngest child was [REDACTED]. Furthermore, you testified that your youngest child was currently a full-time student who resided with you, but was away at



██████████ According to your account, all members on your account, including your youngest child have the same mailing address.

Pursuant to the above cited regulations, a child aged 19 or 20, whose primary residence is with their parents, is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 155% of the FPL for the applicable family size. On the date of the application the applicable FPL for a four-person household was \$24,600.00.

Since the evidence establishes that your child ██████████ at the time of the application and that her primary residence was with her parents, she was eligible for Medicaid, because the annual household income amount of \$34,959.28, listed in your December 5, 2017 application, was 142.11% of the 2017 FPL for a four-person household, under the 155% Medicaid threshold.

Therefore, the December 12, 2017 eligibility determination notice, to the extent is stated your youngest child was eligible for Medicaid, effective December 1, 2017, was correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined your youngest child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until November 30, 2018.

Pursuant to the above cited regulations, once a person is determined eligible for Medicaid, that eligibility continues for 12 months, with limited exceptions, even if the applicant's income increases above the allowable Medicaid limit within that period. This provision is called "continuous coverage."

Therefore, having been determined eligible for Medicaid effective December 1, 2017, barring the occurrence of certain events, your youngest child eligibility for Medicaid should not end prior to November 30, 2018.

Although you updated your application on January 17, 2018, increasing your attested household income amount by removing the IRA deduction attested to in your previous application, since your youngest child had already been determined eligible for Medicaid, her Medicaid eligibility continued despite the subsequent income disqualification.

Since you testified that the information in the December 5, 2017 application, upon which your youngest child's Medicaid eligibility is based, was accurate at the time it was filed, and there is no evidence in your account that your youngest child entered prison or another facility that provides medical care, moved out of state, or failed to provide a valid Social Security number, your youngest child remains eligible for and enrolled in Medicaid for the remainder of her 12-month eligibility period, barring the occurrence of a disqualifying event.

Therefore, the January 18, 2018 eligibility determination, to the extent it stated your youngest child was not eligible for Medicaid, but her coverage would continue until November 30, 2018 is correct and is AFFIRMED.

## **Decision**

The December 12, 2017 and January 18, 2018 eligibility determinations are AFFIRMED.

**Effective Date of this Decision:** March 22, 2018

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

Your youngest child's Medicaid coverage, which began on December 1, 2017, continues until November 30, 2018, barring subsequent changes in her 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 December 12, 2017 and January 18, 2018 eligibility determinations are AFFIRMED.

Your youngest child's Medicaid coverage, which began on December 1, 2017, continues until November 30, 2018, barring subsequent changes in her eligibility.

### **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 okyerε 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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