



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

## Notice of Decision

Decision Date: March 07, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026080

[REDACTED]

Dear [REDACTED],

On February 23, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's November 14, 2017 eligibility determination and the December 19, 2017 plan enrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

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## Decision

Decision Date: March 07, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000026080

[REDACTED]

## Issues

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

Did NY State of Health provide a timely determination of your Medicaid eligibility as of November 14, 2017?

Did NY State of Health properly determine that your Medicaid Managed Care plan began on February 1, 2018?

## Procedural History

On October 26, 2017, NY State of Health (NYSOH) received your updated application for financial assistance with health insurance. This application indicated that you were pregnant with one child and your due date was [REDACTED].

On October 27, 2017, NYSOH issued an eligibility determination notice stating, in part, that you were eligible for Medicaid coverage for all outpatient prenatal Medicaid services. The notice further stated that this eligibility was effective October 1, 2017. The notice directed you to submit proof of your household income and third-party health insurance by November 10, 2017, in order to confirm your eligibility.

On October 28, 2017, you uploaded two documents to your NYSOH account.

On October 31, 2017, NYSOH issued a notice stating that the income documentation that you submitted did not confirm the information listed in your

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application. The notice directed you to submit additional income documentation by November 10, 2017.

On November 13, 2017, NYSOH received your application for financial assistance with health insurance. You also uploaded eight documents to your NYSOH account on this date.

On November 14, 2017, NYSOH issued an eligibility determination notice stating, in part, that you were eligible for Medicaid, effective November 1, 2017. This notice further stated that you were not able to enroll into a Medicaid Managed Care plan because data sources show that you have other health insurance coverage or Medicare.

On December 13, 2017, you uploaded one document to your NYSOH account.

On December 18, 2017, NYSOH received your updated application for financial assistance with health insurance.

On December 19, 2017, NYSOH issued an eligibility determination notice stating, in part, that you remain eligible for Medicaid, effective December 1, 2017. The notice directed you to select a Medicaid Managed Care plan for enrollment.

On December 19, 2017, NYSOH issued a plan enrollment notice confirming, in part, your enrollment in a Medicaid Managed Care plan, effective February 1, 2018.

Also on December 19, 2017, you spoke to NYSOH's Account Review Unit and appealed the start date of your Medicaid Managed Care plans insofar as it did not start on November 1, 2017.

On February 23, 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 enrollment start date of your Medicaid Managed Care plan.
- 2) According to your NYSOH account, NYSOH received your updated application for financial assistance on October 26, 2017, and you were found presumptively eligible for Medicaid effective October 1, 2017.

- 3) On October 28, 2017, you uploaded one of your weekly paystubs to your NYSOH account.
- 4) On November 13, 2017, you uploaded four of your weekly paystubs and four of your spouse's weekly paystubs to your NYSOH account.
- 5) According to your NYSOH account, you also submitted an updated application for financial assistance on November 13, 2017.
- 6) According to your NYSOH account, you were found fully eligible for Medicaid effective November 1, 2017.
- 7) On December 13, 2017, you uploaded a letter from your employer stating that your health insurance coverage ended as of October 1, 2017(see [REDACTED]).
- 8) You testified that you would like your Medicaid Managed Care plan to start as of November 1, 2017, because your doctor does not accept Fee-for-Service Medicaid.

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

## **Applicable Law and Regulations**

### Medicaid for Pregnant Women

Medicaid can be provided through the Marketplace 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), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the FPL for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

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

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

### Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data from state and federal data sources that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i), 42 CFR § 435.945).

If NYSOH cannot verify the income information required to determine eligibility, they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f) 42 CFR § 435.952).

### Timely Notice of Medicaid Eligibility

When an individual applies for insurance through NYSOH, NYSOH must determine that person's eligibility promptly and without undue delay (45 CFR § 155.310(e)(1); 42 CFR § 435.1200(b)(3)(iii)).

To assess whether an eligibility determination was untimely, NYSOH must base the time period from the date of application to the date NYSOH notifies the applicant of its decision (45 CFR § 155.310(e)(2)). However, if the applicant submits an incomplete application or there is not sufficient information for NYSOH to make an eligibility determination, then NYSOH must notify that applicant that more information is needed to complete the application (45 CFR § 155.310(k)(1)).

NYSOH must provide pregnant Medicaid applicants notice of their eligibility determination within 30 days from the date of the completed application (18 NYCRR § 360.2.4(3)(i)).

### Third Party Health Insurance

A person who has primary medical or health care coverage available from or under a third-party insurance provider is not permitted to enroll into a Medicaid Managed Care plan (NY Social Services Law (NY SSL) § 364-j(3)(e)(xx); Medicaid Managed Care Model Contract (Appendix H-6), effective 3/1/2014 – 2/28/2019). However, they will remain eligible for fee-for-service Medicaid with

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limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, or failing to provide a valid social security number (NY SSL § 366(4)(c)).

### Medicaid Managed Care- Effective Date

Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

## **Legal Analysis**

The first issue under review is whether NYSOH provided you with timely determination of your Medicaid eligibility.

On October 26, 2017, you updated your NYSOH account to indicate that you were pregnant with one child, an application was submitted on your behalf. The income amount that was entered into that application did not match what NYSOH received from state and federal data sources. As a result, NYSOH asked that you submit income documentation to confirm your household's income.

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow NYSOH to verify the household's income. If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence.

On October 28, 2017, you uploaded one of your weekly paystubs to your NYSOH account. Subsequently, on October 30, 2017, NYSOH invalidated your documentation because you failed to provide four consecutive weeks' worth of paystubs for you and your spouse.

On November 13, 2017, you uploaded four weeks' worth of consecutive paystubs for you and your spouse. However, instead of waiting for these documents to be reviewed, you also submitted an updated application for financial assistance that day. NYSOH was able to validate the income information you listed in your November 13, 2017 application against state and federal data sources.

Therefore, your application was considered complete as of November 13, 2017.

NYSOH must provide pregnant Medicaid applicants notice of their eligibility determination within 30 days from the date of the completed application. To assess whether an eligibility determination was untimely, NYSOH must look at the time from the date of the completed application to the date NYSOH notifies the applicant of its decision.

Your application was not considered complete until you updated it on November 13, 2017. Prior to November 13, 2017 application, there was insufficient documentation to verify the income information entered into your NYSOH account. NYSOH issued an eligibility determination on November 14, 2017, stating that you were fully eligible for Medicaid, effective November 1, 2017.

Since NYSOH issued an eligibility determination notice one day from the date that your application was considered complete, the November 14, 2017 eligibility determination is timely and, as a result, is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your enrollment in your Medicaid Managed Care plan was effective February 1, 2018.

Individuals who are presumptively or conditionally eligible for Medicaid are not able to enroll into a Medicaid Managed Care plan. Therefore, NYSOH was proper in not allowing you to enroll into a Medicaid Managed Care plan until you were found fully eligible for Medicaid.

The record indicates that you were found fully eligible for Medicaid on November 13, 2017. However, the record indicates that you were unable to enroll into a Medicaid Managed Care plan as of November 13, 2017, because data sources showed that you had other health insurance or Medicare.

When an individual is fully eligible for Medicaid through NYSOH, they are required to enroll in a Medicaid Managed Care plan. However, when a person has comprehensive third-party health coverage and that coverage is determined to be cost-effective, they are not eligible to enroll in a Medicaid Managed Care plan.

You testified that you were no longer enrolled in health insurance through your employer as of October 1, 2017. Further, on December 13, 2017, you uploaded a letter from your employer stating that you were no longer covered under your employer's sponsored medical or dental insurance plans as of October 1, 2017. (see [REDACTED]).

As a result, the credible evidence of the record supports that you were no longer enrolled in third-party health insurance when your completed application was submitted on November 13, 2017. As a result, you should have been able to enroll into a Medicaid Managed Care plan as of November 13, 2017, when you were found fully eligible for Medicaid.

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Generally, a plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

Therefore, had you been able to select a Medicaid Managed Care plan for enrollment on November 13, 2017, when you were found fully eligible for Medicaid, your enrollment would have begun the first month following November 2017, that is, on December 1, 2017.

Accordingly, the December 19, 2017 plan enrollment notice is MODIFIED to reflect that your enrollment in your Medicaid Managed Care plan began as of December 1, 2017, and not February 1, 2018.

Your case is RETURNED to NYSOH to enroll you in your Medicaid Managed Care plan as of December 1, 2017, and to notify you accordingly.

## **Decision**

The November 14, 2017 eligibility determination was timely and is AFFIRMED.

The December 19, 2017 plan enrollment notice is MODIFIED to reflect that your enrollment in your Medicaid Managed Care plan began as of December 1, 2017, and not February 1, 2018.

Your case is RETURNED to NYSOH to enroll you in your Medicaid Managed Care plan as of December 1, 2017, and to notify you accordingly.

**Effective Date of this Decision:** March 07, 2018

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

This decision does not change your current eligibility.

Your Medicaid Managed Care plan should have been effective December 1, 2017.

Your case is being sent back to NYSOH to enroll you into your Medicaid Managed Care plan as of December 1, 2017. NYSOH will notify you once this has been completed.

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

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

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

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

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

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

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

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:

NY State of Health Appeals  
P.O. Box 11729

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

Albany, NY 12211

- By fax: 1-855-900-5557

## **Summary**

The November 14, 2017 eligibility determination was timely and is AFFIRMED.

The December 19, 2017 plan enrollment notice is MODIFIED to reflect that your enrollment in your Medicaid Managed Care plan began as of December 1, 2017, and not February 1, 2018.

Your case is RETURNED to NYSOH to enroll you in your Medicaid Managed Care plan as of December 1, 2017, and to notify you accordingly.

This decision does not change your current eligibility.

Your Medicaid Managed Care plan should have been effective December 1, 2017.

Your case is being sent back to NYSOH to enroll you into your Medicaid Managed Care plan as of December 1, 2017. NYSOH will notify you once this has been completed.

## **Legal Authority**

We are issuing this determination 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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