



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

## Notice of Decision

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028679



Dear [REDACTED]

On April 24, 2018, you appeared by telephone at a hearing on your appeal of NY State of Health's January 9, 2018 eligibility determination notice, plan enrollment notice, and February 9, 2018 plan enrollment 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.

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## **Decision**

Decision Date: May 21, 2018

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000028679



## **Issues**

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

Did NY State of Health provide a timely and adequate written notice of your Medicaid eligibility as of January 9, 2018?

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

## **Procedural History**

On September 3, 2017, NY State of Health (NYSOH) received your application for financial assistance with your health insurance. This was the first time you indicated you were pregnant on your application.

On September 4, 2017, NYSOH issued an eligibility determination stating that you were conditionally eligible for Medicaid, effective September 1, 2017. The notice stated you needed to provide additional income information to confirm the income amount in your application by September 18, 2017.

On September 4, 2017, NYSOH issued a plan enrollment notice stating the type of Medicaid coverage you were eligible for did not require nor allow you to enroll in a health plan.

You submitted income documentation on September 6, 7, 11, and 14, 2017, October 1, and 26, 2017, and December 14, 19, 27, and 28, 2017.

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A NYSOH representative invalidated your uploaded income documentation on September 7 and 15, 2017, October 2 and, 27, 2017, and December 29, 2017.

NYSOH issued notices on September 8 and 17, 2017, October 3 and 28, 2017, and December 30, 2017, stating the income documentation reviewed did not confirm the information your application and additional income documentation was needed.

On December 29, 2017, NYSOH issued an eligibility determination notice stating you were eligible for Medicaid coverage, effective February 1, 2018, for all outpatient prenatal Medicaid Services, including all Medicaid covered services except: inpatient care, alternate level care, institutional long-term care, and long-term home health care. The notice directed you provide proof of your income by January 12, 2018.

On January 8, 2018, according to your NYSOH account, a NYS Department of Health (NYSDOH) representative changed your Medicaid eligibility from presumptive Medicaid to fee-for-service Medicaid as of January 1, 2018.

A preliminary eligibility determination made on January 8, 2018, shows you were eligible for Medicaid as of February 1, 2018.

On January 9, 2018, NYSOH issued an eligibility determination notice which on [REDACTED] states your household income of \$59,403.88 is at or below the allowable income limit of \$64,180.00, you are eligible for Medicaid.

On January 9, 2018, NYSOH issued a plan enrollment notice stating please pick a health plan now.

On February 8, 2018, you enrolled in a Medicaid Managed Care plan with an effective date of March 1, 2018.

Also on February 8, 2018, you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your Medicaid Managed Care plan, requesting that it begin February 1, 2018.

On February 9, 2018, NYSOH issued an enrollment notice confirming your enrollment in a Medicaid Managed Care plan, effective March 1, 2018.

On April 24, 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) According to your NYSOH account and your testimony, you are appealing your enrollment start date of your Medicaid Managed Care plan.
- 2) According to your NYSOH account, on September 3, 2017, NYSOH received your application for financial assistance in which you indicated you were pregnant.
- 3) In September 2017, October 2017, and December 2017, you submitted documentation in the form of your and your spouse's paystubs and a letter from your employer to verify the income information you provided in your applications.
- 4) A NYSOH representative invalidated the income documentation you submitted each time on September 7 and 15, 2017, October 2 and 27, 2017, and December 29, 2017, as out of date or incomplete.
- 5) According to your NYSOH account, on January 8, 2018, a NYSDOH representative validated your household income, updated your application, and changed your eligibility from eligible for presumptive Medicaid to eligible for full Medicaid as of January 1, 2018.
- 6) According to your NYSOH account, you had coverage as of January 1, 2018, in Medicaid Fee-For-Service.
- 7) On December 14 and 19, 2017 and March 12, 2018, NYSOH verified your income documentation as acceptable proof of income.
- 8) You testified you worked with a Navigator who was submitting applications and documentation on your behalf.
- 9) According to your NYSOH account, you successfully selected a Medicaid Managed Care plan on February 8, 2018, with a March 1, 2018 enrollment start date.
- 10) You testified that you want your Medicaid Managed Care plan to begin on February 1, 2018, because your child was [REDACTED] and some medical bills were not covered by Medicaid Fee-For-Service.

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

## **Applicable Law and Regulations**

### **Presumptive Eligibility 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 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 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 Medicaid applicants who are a pregnant woman or infant younger than one year of age notice of their eligibility determination within 30 days from the date of the application (18 NYCRR §360-2.4(a)(3)(i)).

## Proper Notice of Medicaid Eligibility

NYSOH is required to provide timely and adequate written notice to all Medicaid applicants and beneficiaries of any decision impacting their eligibility, including an approval, denial, termination or suspension of eligibility, or denial of a change in benefits and services (42 CFR § 435.917(a)). These notices must include the basis and effective date of the eligibility determination, the circumstances under which the individual must report (and procedures for reporting) any changes which may impact the individual's eligibility, information on the level of benefits and services available based on the individual's eligibility, and the amount of medical expenses which must be incurred to establish eligibility, if applicable (42 CFR § 435.917(b)(1)(i)-(iv)).

NYSOH may provide a combined eligibility notice to multiple household members, in order to provide notice to multiple applicants of each of the insurance affordability programs and enrollments in qualified health plans for which a determination or denial of eligibility was made, as well as any right to request an appeal related to the determination made for each program (42 CFR §§ 435.4; 435.917(d)). Such combined eligibility notices must include the same necessary information as all notices to Medicaid applicants and beneficiaries of any decision impacting their eligibility, as described above (42 CFR §§ 435.4; 435.917(d)). If any of the necessary information is not included in the combined eligibility determination notice, NYSOH must provide the individual with a supplemental notice of such information (42 CFR § 435.917(d)).

## Medicaid- Effective Dates

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

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 a timely and adequate written notice of your Medicaid eligibility as of January 9, 2018.

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For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data that will allow it 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.

You updated your account on September 3, 2017, and indicated you were pregnant. An eligibility determination notice was issued on September 4, 2017, based on that application stating you were conditionally eligible for Medicaid, effective September 1, 2017, and you needed to provide additional income information to confirm the income amount in your application by September 18, 2017.

You continued to provide income documentation to NYSOH In September 2017, October 2017, and December 2017, in the form of uploaded documents to your account. The documentation you provided consisted of copies of your and your spouse's paystubs and a letter from your employer, all of which were intended to verify the income information throughout this timeframe. The documents uploaded were invalidated as insufficient to prove your household income and your eligibility for greater financial assistance. As a result, NYSOH continued to send you notices in September 2017, October 2017, and December 2017, informing you that you needed to provide additional income documentation.

On December 14 and 19, 2017, and March 12, 2018, NYSOH representatives verified your income documentation as acceptable proof of income. It was not until January 8, 2018, that a NYSDOH representative changed your eligibility from presumptively eligible for Medicaid to full Medicaid, effective January 1, 2018. This meant you had coverage under Medicaid Fee-For-Service as of January 1, 2018.

Therefore, the earliest your application is considered complete as of December 14, 2017, for purposes of issuing an eligibility determination notice.

NYSOH must provide a Medicaid applicant who is a pregnant woman notice of their eligibility determination within 30 days from the date of the completed application. NYSOH must base the time period from the date of the completed application to the date it notifies the applicant of its decision. NYSOH issued a written notice to you on January 9, 2018 stating in part that you were now eligible for Medicaid because your household income of \$59,403.88 was at or below the allowable income limit of \$64,180.00. NYSOH also provided a plan enrollment notice on January 9, 2018 which stated you could now pick a plan. Therefore, NYSOH satisfied the timely notice requirement when it issued these notices within 26 days of your completed application.

The issue now turns to whether these combined notices were adequate to communicate the change in your eligibility based upon the NYSDOH

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representative's redetermination on January 8, 2018. An individual is eligible for fee-for-service Medicaid the first of the month if an individual was eligible any time during that month. Since your eligibility was changed from presumptive Medicaid, to full Medicaid on January 8, 2018, you would be eligible as of January 1, 2018.

NYSOH is required to provide timely and adequate written notice to all Medicaid applicants and beneficiaries of any decision impacting their eligibility, including an approval, denial, termination or suspension of eligibility, or denial of a change in benefits and services. These notices, including combined notices, must include the basis and effective date of the eligibility determination, the circumstances under which the individual must report (and procedures for reporting) any changes which may impact the individual's eligibility, information on the level of benefits and services available based on the individual's eligibility, and the amount of medical expenses which must be incurred to establish eligibility, if applicable.

Neither the January 9, 2018 eligibility determination notice nor the January 9, 2018 plan enrollment notice contains the effective date that you were now eligible for full Medicaid. Further, the eligibility determination notice that was issued only states [REDACTED] that you were financially eligible for Medicaid. The enrollment notice only states you could now pick a plan, but does indicate the coverage you were now eligible for.

Therefore, NYSOH's January 9, 2018 eligibility determination notice and plan enrollment notice, while considered timely, were inadequate for purposes of communicating in writing your new eligibility for full Medicaid and coverage under Medicaid Fee-For-Service as of January 1, 2018.

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

The record reflects that you contacted NYSOH on February 8, 2018, and enrolled into a Medicaid Managed Care plan.

The date on which a Medicaid Managed Care plan can take effect depends on the day a person selects the plan for enrollment.

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.

However, since NYSOH failed to issue an adequate eligibility determination notice stating the effective date of your eligibility for full Medicaid as of January 1, 2018, coupled with a plan enrollment notice that lacked an effective date and the

type of coverage you were now eligible for, it is determined NYSOH's communication was inadequate both as to your new eligibility for full Medicaid, the January 1, 2018 the effective date of the change, and your coverage under Medicaid Fee-For-Service as of that date. Had you been properly notified of your eligibility and effective date for full Medicaid as of January 9, 2018, you would have been able to select a Medicaid Managed care plan before January 15, 2018. Had you been able to do so, your enrollment in a Medicaid Managed Care plan would have taken effect the first day of the first month following January 2018; that is, on February 1, 2018.

Therefore, the February 9, 2018 plan enrollment notice stating that your enrollment in your Medicaid Managed Care plan would be effective March 1, 2018, is MODIFIED to state your Medicaid Managed Care plan is effective February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your enrollment in your Medicaid Managed Care plan as of February 1, 2018, and to notify you accordingly.

## **Decision**

The January 9, 2018 eligibility determination and plan enrollment notices are considered timely, but were inadequate as to eligibility, effective date, and type of coverage.

The February 9, 2018 plan enrollment notice stating that your enrollment in your Medicaid Managed Care plan would be effective March 1, 2018, is MODIFIED to state your Medicaid Managed Care plan is effective February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your enrollment in your Medicaid Managed Care plan as of February 1, 2018, and to notify you accordingly.

**Effective Date of this Decision:** May 21, 2018

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

You were eligible for Medicaid fee-for-service as of January 1, 2018.

Your case is being sent back to NYSOH to change your enrollment in your Medicaid Managed Care plan to effective February 1, 2018. NYSOH will notify you once this is done.

## **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 January 9, 2018 eligibility determination and plan enrollment notices are considered timely, but were inadequate as to eligibility, effective date, and type of coverage.

The February 9, 2018 plan enrollment notice stating that your enrollment in your Medicaid Managed Care plan would be effective March 1, 2018, is MODIFIED to state your Medicaid Managed Care plan is effective February 1, 2018.

Your case is RETURNED to NYSOH to effectuate your enrollment in your Medicaid Managed Care plan as of February 1, 2018, and to notify you accordingly.

You were eligible for Medicaid fee-for-service as of January 1, 2018.

Your case is being sent back to NYSOH to change your enrollment in your Medicaid Managed Care plan to effective February 1, 2018. NYSOH will notify you once this is done.

## **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 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।

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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 मदद 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&tumi 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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